

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, July 18, 2017

Lebanon, Virginia

**BOARD MEMBERS:**

Bradley C. Lambert – Chairman

Bill Harris – Public Representative

Bruce Prather – Oil and Gas Industry Representative

Donnie Ratliff – Coal Industry Representative

Donnie Rife – Public Member

Mary Quillen – Public Member

Rita Surratt – Public Member

**APPEARANCES:**

Mary Quillen—Public Member, Wise County

Rick Cooper—Director of the Division of Gas & Oil and  
Principal Executive to the Staff of the Board

Paul Kugelman, Jr.—Senior Assistant Attorney General

Rita Surratt – Public Member, Dickenson County

Bill Harris – Public Member, Wise County

Bradley C. Lambert – Department of Mines, Minerals, and Energy

Bruce Prather – Oil and Gas Industry Representative

Donnie Ratliff – Coal Representative

Donnie Rife – Public Member, Dickenson County

Sarah Gilmer – Staff Member of the Division of Gas & Oil

Sally Ketron – Staff Member of the Division of Gas & Oil

*Prepared by: Joanna Boyd*

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**Butch Lambert:** It’s time to begin our proceedings this morning. I would like to remind those in the audience and others present, if you have communication devises, including cell phones or other devises, please put those on vibrate or turn them off. And if you have to take a call, please do so out in the hall. I’ll begin our proceedings this morning by asking the Board to introduce themselves and I’ll begin with Ms. Surratt.

**Rita Surratt:** I’m Rita Surratt; Public Member from Dickenson County.

**Paul Kugelman, Jr.:** Paul Kugelman with the Virginia Attorney General’s Office.

**Butch Lambert:** Butch Lambert with the Department of Mines, Minerals, and Energy.

**Donnie Rife:** Donnie Rife; Dickenson County, Public Member.

**Bill Harris:** I’m Bill Harris, a Public Member from Wise County.

**Bruce Prather:** I’m Bruce Prather. I represent the Oil & Gas Industry.

**Mary Quillen:** Mary Quillen, Public Member. Wise County.

**Item Number 1**

**Butch Lambert:** Okay, at this time we’ll ask for public comments and I don’t have anyone that has signed up for comment this morning and I’ll ask the audience, if you didn’t sign up and you wish to comment, just to please come forward at this time. Okay, seeing no one, we’ll move on to Docket Item Number 2.

**Item Number 2**

**Butch Lambert:** The First Bank and Trust escrow agent for the Virginia Gas & Oil Board will appear to address the Board on a quarterly report. Good morning.

**Jody Maney:** Good morning. Everyone have a copy? This is our second Quarterly Report for 2017. We’ll start on Page 3. This is the summary. Our beginning balance, as of April 1, 2017, was \$17,745,428.06. We had deposits of \$188,004.56. Interest earned was \$9,591.23. Fees of \$4,322.22. Distributions through the second quarter \$1,467,940.57. That gives a year to date total of \$2,356,312.45. Year to date total. We have adjustments of \$14.61, giving an ending balance of \$16,470,775.68. The next several pages are the list of outstanding checks through June 30<sup>th</sup>.

**Butch Lambert:** How many pages? Do you have a...

**Jody Maney:** The total is on Page 53.

**Butch Lambert:** Okay.

1 **Jody Maney:** And these are all the checks that have been issued through June 30<sup>th</sup>, that have not  
2 been cashed, even if they were issued on June 30<sup>th</sup>. They are going to appear on this report. So,  
3 the grand total of outstanding checks is \$331,241.75, on Page 53, and that's broken down  
4 between EQT, CNX, and EnerVest.

5 **Butch Lambert:** Looks like CNX is going to have to get on the ball and get some money and get  
6 some checks back in.

7 **Jody Maney:** And these have been issued and sent to the people; they've either not received  
8 them; not cashed them.

9 **Butch Lambert:** I apologize for not looking at the very beginning, but how far does these go  
10 back?

11 **Jody Maney:** Since the day First Bank and Trust started as escrow agent.

12 **Bruce Prather:** These people have signed their 1099's.

13 **Jody Maney:** These have signed their W-9's, yes, and have submitted a W-9 to us, and we have  
14 issued their checks.

15 **Mary Quillen:** They just haven't cashed them?

16 **Jody Maney:** They have not cashed them.

17 **Mary Quillen:** Oh, wow.

18 **Bill Harris:** Do you have any record of how this has changed over the last few months? I mean,  
19 has it gotten better or are we increasing the number?

20 **Jody Maney:** Of outstanding checks?

21 **Bill Harris:** Yes.

22 **Jody Maney:** We have issued a lot of checks in June, so a lot of those are going to appear on this  
23 report.

24 **Bill Harris:** Okay.

25 **Jody Maney:** The escheatment list is later on in the report, and that will be escheated on the next  
26 page. The 2017 escheatment's, towards the end of 2017, will be \$1,225.69.

27 **Butch Lambert:** Mr. Cooper, are these names on our website?

28 **Rick Cooper:** They are and we've sent letters out to these people also to try to make second  
29 contact with them.

1 **Butch Lambert:** Okay. Thank you.

2 **Jody Maney:** And then 2018, it's \$911.54.

3 **Mary Quillen:** Most of these seems to be very small amounts, except for just a handful, but  
4 that's good. There no really...

5 **Jody Maney:** There's not a large dollar.

6 **Mary Quillen:** Yeah, right.

7 **Bruce Prather:** Well, there were two \$50,000 checks [Indiscernible]. Have those two been  
8 resolved?

9 **Jody Maney:** I'm sorry, the what?

10 **Bruce Prather:** There were two large checks, better than \$50,000.

11 **Jody Maney:** On the escheatment?

12 **Bruce Prather:** Yeah. Have they been resolved? Those two?

13 **Jody Maney:** I'll have to check. I don't see them on the list, but I don't remember \$50,000 being  
14 on there.

15 **Bruce Prather:** There was two of them. It was \$50,000.

16 **Jody Maney:** Was it on the escheatment for 2017?

17 **Bruce Prather:** Yeah.

18 **Jody Maney:** Okay.

19 **Bruce Prather:** I think it was on the last meeting that we had in May or April.

20 **Jody Maney:** Okay.

21 **Bruce Prather:** If we could get those checks in, we've have almost a third of it done.

22 **Jody Maney:** Mm hmm. On Page 55, this is the June Report. This is only for the month of June.  
23 This shows each account; the beginning balance, the deposits to the accounts, the money market  
24 interest, the CDARS interest, any fees, distributions, transfers to the W-9 [Indiscernible], any  
25 corrections, and the ending market value for each account. And the totals are on Page 70 for that  
26 report. Any questions on those? [No response] The next several pages are the list of people that  
27 have not submitted their W-9, and we have made a good amount of progress in the month of  
28 June. EnerVest had sent letters to all of the people on the NoW-9 spreadsheet, and we have paid  
29 out \$34,268.98 just in the month of June from the NoW-9 spreadsheet.

1 **Paul Kugelman, Jr.**: What page is that on? I'm sorry.

2 **Jody Maney**: That is on Page 104.

3 **Paul Kugelman, Jr.**: Thank you.

4 **Butch Lambert**: And EnerVest has been in contact with the Board on the efforts that they are  
5 stepping up and try to make and we appreciate. You are from EnerVest in trying [Indiscernible]

6 **Jody Maney**: Yes, we've put out a lot in the month of June from the No W-9 spreadsheet. So,  
7 the No W-9 total is \$57,372.87, down from \$91,000. So, we've paid out over 37% of just this  
8 account in the month of June. Page 105 shows the amount of income versus the amount of  
9 distributions we have received since First Bank and Trust began as escrow agent in 2010. 2017  
10 year to date, there has been \$349,268.00 deposited, and \$2,356,312.00 distributed. And a graph  
11 at the bottom showing the amounts of income and the amounts of distributions. Any questions on  
12 that? [No response]

13 **C.J. Carter**: Alright, we're going to move into the investment portion of this presentation or  
14 report, which is going to be very brief. As you can see here on Page 106, the funds that are  
15 currently in this escrow account are all invested in the ICS Money Market. That will be  
16 \$16,470,776, so, of course, we've had various CD's or CD's have been purchased in this  
17 account, you know, over different periods of time. They've all matured, and as instructed, we've  
18 let those proceeds of those CD's kind of roll into the ICS Money Market Account. And again,  
19 this Money Market Account is fully FDIC Insurance covered, that's brokered out to participating  
20 banks. You can see the yield remains at 0.2%; that's the yield on the Money Market Account.  
21 You can see the estimated annual income, of course that would be on, if this balance was  
22 maintained for the entire year, it would be a little over \$28,033.00. The next page, which is really  
23 less applicable now because there are only, it's the only ICS Money Market that holds funds for  
24 this account, but, as I said, we had CD's in this account, of various types, this was simply a quick  
25 page showing the pros and cons of different types of CD's. So if there's not any questions, I'll  
26 move on over that.

27 **Butch Lambert**: Any questions from the Board? [No response]

28 **C.J. Carter**: Okay, so this is our rate comparison so we like to certainly keep abreast of the  
29 changes in the interest rates, or the rates of return that we can get on very low risk or zero risk  
30 credit risk instruments that would be applicable to this account. So, we show three different types  
31 of rates, those are CDARs CD Rates, Treasury Rates, and what we call Brokered or DTC eligible  
32 CD Rates. So, you probably have known that the Federal Reserve has increased rates a few  
33 times, recently, and so that is reflective of the, what I call the short end, the shorter maturities.  
34 One month through three years. You can see, with the exception of the Cedars Rate, it's the  
35 Treasury Rates and the Brokered CD Rates, have all increased since April 17<sup>th</sup> of this year. And  
36 they've increased pretty noticeably. Treasury Rates are becoming more attractive, but the main

1 trend remains the same, which is that the Brokered CD Rates are still the best rates that we can  
2 get. Again, there all fully FDIC insured, but they have increased nicely over the maturities listed  
3 here from one month to three years. Okay, if no questions, the final Page 109, this simply, we  
4 found it necessary to report the rate hike probabilities. This is the Fed Funds Rate and the Federal  
5 Reserve, Federal Market Committee controls. You can see right now, it's a range, it's typically  
6 not quoted that but it's between 1% and 1.25%. So, this just shows what, this is based from the  
7 CME and it is the Fed Futures Rate. These are the probabilities that change daily on what the  
8 likelihood of further interest rate increases would be. So, this would be applicable if the Board  
9 were to [Indiscernible] an investment strategy down the road to understand what the effect  
10 interest rate increases might be to the CD's or treasuries that we have available, so, as I  
11 mentioned before, the Fed Funds Rate has been increased three times recently. But, the odds are  
12 that, at least right now, being priced in the futures market that they will not increase rates again.  
13 There's a 33.8% chance in the December meeting, that the rate hike would, that the Fed Funds  
14 Rate would be increase once more quarter basis point. So, that's all I had, unless there are any  
15 questions for myself or for Jody.

16 **Mary Quillen:** Well, with the distributions that we are having and how aggressively we are  
17 trying to, you know, get all of these monies distributed to the proper owners, probably, you  
18 know, right at this point, until we see that all of those, and of course, we're going to have some  
19 because we do have unknown, unlocatables and that sort of thing; that we might look at, and I  
20 personally, think that I agree with you with the CD's that they are the most stable, that we might  
21 invest some of that like for a short periods of time. You know, as we continue to work to try to  
22 identify these folks, but you know, a little more interest than in the Money Market, we'd be able  
23 to do that, correct?

24 **C.J. Carter:** Yes, I think once you felt pretty comfortable about the short-term distributions,  
25 what they would be, and you kind of identify a tranche of money that might be suited for three,  
26 six, or even a nine month. We could put something together.

27 **Mary Quillen:** Right. And this, I think, would probably suit our needs and best serve our goals  
28 of trying to, we'd like to distribute every dollar of this, but you know, that's right now, not  
29 anything in the foreseeable future with those, but we would continue to work aggressively to try  
30 and identify these people but in the meantime, try to get a little [Indiscernible].

31 **C.J. Carter:** The good news is the rates are a little bit better than they used to be so, we're going  
32 to be working a little bit harder once that decisions made.

33 **Mary Quillen:** Exactly, right, right, right. That's true. Thank you. Appreciate it.

34 **Butch Lambert:** Ms. Quillen makes a very good point with the Yellow Poplar case now being  
35 settled and we can disburse that kind of money, and we're well into House Bill 2058 and we've  
36 got a better handle on how much of that money will start being disbursed, but we need to  
37 probably start looking a little further down the road now that we know there's going to be a set

1 amount that probably will take years, at this point, in giving checks not being cashed, no W-9's,  
2 unknown/unlocatables, that maybe at some point at the first of next year, later in the year, we can  
3 take a look at some of these investments to grow some of those funds.

4 **C.J. Carter:** Glad to.

5 **Butch Lambert:** [Indiscernible] be here for a while.

6 **C.J. Carter:** Yeah, we'd be glad to, and we can put together, we can try to identify some buckets  
7 of the money in terms of the maturity, or the likely payout, try to match the investments in  
8 maturity with that, so we can certainly do that.

9 **Butch Lambert:** Any more questions or comments from the Board?

10 **Mary Quillen:** Just a comment. In speaking of the Yellow Poplar that is scheduled to be  
11 disbursed, which is about 1.5 million dollars, I mean, this has been, this is aggressively and this  
12 is how this office and Rick and his folks have just done an outstanding job and they have worked  
13 diligently getting us to this point and I think they should be absolutely applauded and  
14 commended for what they have done in helping work with the state legislature helping us with  
15 the House Bill, but this office needs to be applauded and recognized for their outstanding work  
16 on this and continuing to do this work, so thank you so much, folks. You've done an outstanding  
17 job and I just wanted that on record.

18 **Rick Cooper:** Thank you, ma'am, and I will agree, the staff has done an outstanding job in  
19 getting these disbursements out timely and we appreciate that.

20 **Mary Quillen:** They have.

21 **Butch Lambert:** Any other comments? [No response] Thank you, folks. Appreciate your time.

22 **C.J. Carter:** Thank you.

### 23 **Item Number 3**

24 **Butch Lambert:** A petition from EQT Production Company for (1) the disbursement of funds on  
25 behalf of the owners in Tracts 5, 6, 15, 16, and 20, who have turned in their W-9's, according to  
26 House Bill 2058. Docket Number VGOB 98-0324-0645-02.

27 **Rick Cooper:** Mr. Chairman, EQT has requested that this be continued until September.

28 **Butch Lambert:** Okay. That will be continued until September.

29 **Mary Quillen:** What Item Number was that?

30 **Butch Lambert:** That's Number 3. Docket Item Number 3.



1 **Mary Quillen:** Okay. It was September?

2 **Butch Lambert:** Yes, ma'am.

3 **Item Number 4**

4 **Butch Lambert:** A petition from Magnum Hunter Production, Inc., for transfer of unit operator  
5 for Board orders from Daughtery Petroleum, Inc. and Magnum Hunter Production. Docket  
6 Number VGOB 17-07-18-4141. All parties wishing to testify, please come forward.

7 **Tim Scott:** Tim Scott and Debra Reed.

8 **Butch Lambert:** Morning.

9 **Tim Scott/Debra Reed:** Morning.

10 **Sarah Gilmer:** Ms. Reed, do you swear and affirm your testimony is the truth, the whole truth,  
11 and nothing but the truth?

12 **Debra Reed:** I do.

13 **Tim Scott:** Okay, please state your name, Ms. Reed.

14 **Debra Reed:** My name is Debra Reed.

15 **Tim Scott:** And where do you work?

16 **Debra Reed:** I work for Magnum Hunter Production.

17 **Tim Scott:** And what's your position at that company?

18 **Debra Reed:** I'm the Senior Paralegal in the Land Department.

19 **Tim Scott:** And you participated in the preparation of this application. Is that correct?

20 **Debra Reed:** Yes.

21 **Tim Scott:** And can you tell the Board who drilled the original wells for which this change of  
22 operatorship petition has been filed?

23 **Debra Reed:** They were drilled by Daughtery Petroleum.

24 **Tim Scott:** And we've had several name changes. Is that right?

25 **Debra Reed:** Right.

26 **Tim Scott:** Can you tell the Board exactly where we are, as far as how we started and where we  
27 are now?

1 **Debra Reed:** Okay. Daughtery Petroleum changed its name to Engas Production; Engas  
2 Production changed the name to Magnum Hunter Production.

3 **Tim Scott:** And those articles of name changes are set forth in the application. Is that right?

4 **Debra Reed:** They are.

5 **Tim Scott:** Okay. Does Magnum have a bond on file?

6 **Debra Reed:** They do.

7 **Tim Scott:** And, is it authorized to conduct business in the Commonwealth?

8 **Debra Reed:** It is. It is authorized.

9 **Tim Scott:** Okay. That's all I have.

10 **Butch Lambert:** Any questions from the Board? [No response] Anything further, Mr. Scott?

11 **Tim Scott:** That's all I have, Mr. Chairman.

12 **Butch Lambert:** Do I have a motion?

13 **Donnie Rife:** Motion for approval, Mr. Chair.

14 **Butch Lambert:** Do I have a second?

15 **Bruce Prather:** Second.

16 **Butch Lambert:** All in favor, signify by saying yes.

17 **Board:** Yes.

18 **Butch Lambert:** Opposed, no? [No response]

19 **Butch Lambert:** Thank you, Mr. Scott. That is approved.

20 **Tim Scott:** Thank you.

21 **Item Number 5**

22 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of escrow  
23 regarding Tract 1A, and (2) dismissal of service owners. Docket Number VGOB 93-0622-0379-  
24 01. All parties wishing to testify, please come forward.

25 **Mark Swartz:** Mark Swartz and Anita Duty, for the petitioner on this disbursement petition.  
26 Tom Pruitt, Mason Height, and we have a representative of Harrison Financial and Harrison-  
27 Wyatt, is Mr. Landon Wyatt at this table.

1 **Butch Lambert:** I've heard your name a lot, Mr. Wyatt. It's good to see you.

2 **Landon Wyatt:** Landon Wyatt.

3 **Tom Pruitt:** It's for Mr. Wyatt's company, Harrison Financial, Harrison-Wyatt.

4 **Butch Lambert:** It's good to have you back, Mr. Pruitt. It's been a long time.

5 **Tom Pruitt:** Thank you, Mr. Chairman. It has.

6 **Butch Lambert:** You may proceed.

7 **Mark Swartz:** We need to hear from...

8 **Rick Cooper:** We need to swear two of them in, if we could.

9 **Paul Kugelman, Jr.:** We need to finish introductions.

10 **Rick Cooper:** Mr. Wyatt and Mr. McGlothlin.

11 **Joe McGlothlin:** I am Joe Blair McGlothlin. I'm here to represent the B.F. McGlothlin heirs.

12 **Paul Kugelman, Jr.:** Are you an attorney, sir?

13 **Joe McGlothlin:** No sir.

14 **Paul Kugelman, Jr.:** Then you cannot represent anyone but yourself.

15 **Joe McGlothlin:** [Indiscernible]

16 **Paul Kugelman, Jr.:** I'm council of the Board, so I cannot give you legal advice sir, but, you  
17 cannot represent anybody else's interests, anybody else's legal interests' other than your own. If  
18 you want to move for continuance on your own behalf, then do so.

19 **Joe McGlothlin:** I've been misrepresenting...

20 **Paul Kugelman, Jr.:** No, you're not misrepresenting anything, I'm just aware that a lot of folks  
21 don't understand that they cannot represent other people's legal interests. So, I just wanted to  
22 bring that to your attention, because there are laws against unauthorized practice of law, so I'm  
23 just trying to help you out.

24 **Joe McGlothlin:** [Indiscernible]

25 **Paul Kugelman, Jr.:** Yes, sir.

26 **Joe McGlothlin:** [Indiscernible]

1 **Sarah Gilmer:** Mr. Wyatt, Mr. McGlothlin, do you swear and affirm that your testimony is the  
2 truth, the whole truth, and nothing but the truth?

3 **Mr. Wyatt:** I do.

4 **Butch Lambert:** Did Anita get sworn?

5 **Paul Kugelman, Jr.:** Yes, just now.

6 **Rick Cooper:** Oh, Anita. I'm sorry.

7 **Sarah Gilmer:** Ms. Duty, do you swear and affirm that your testimony is the truth, the whole  
8 truth, and nothing but the truth?

9 **Anita Duty:** Yes.

10 **Butch Lambert:** You may proceed.

11 **Mark Swartz:** Okay, Anita this unit was pooled back in 1993, right?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** Okay, and I went back and looked at the order and the Board made some findings  
14 at that time, and I think we want to sort of start with this, in terms of, you know, where we come  
15 to today, and the Board made some findings in the original order that pooled this unit at finding  
16 17.2, and I'll just read part of it—"based on the evidence presented by the applicant, Oxy USA,  
17 Inc., had assigned all of its interests in Buchanan County, Virginia, in coalbed methane leases  
18 and other interests to the applicant, which assignment of interest was recorded in the public  
19 records. Applicant (the applicant for the pooling) claims ownership of gas leases coalbed  
20 methane gas leases, and/or coal leases, representing 100% of the oil and gas interest and 100% of  
21 the coal interest in the subject drilling unit, and applicant claims the right to explore or develop,  
22 produce coalbed methane gas from U-14." And then, at Paragraph 17.7 of the special findings of  
23 the pooling order, the Board addressed this claim by the surface owners, okay? "Respondents are  
24 surface owners who may claim rights to coalbed methane gas in the subject drilling unit listed on  
25 Exhibit B. Set forth in Exhibit B is the name and last known address of each person who is not in  
26 writing, leased or voluntary pooled their interest in subject drilling unit for its development, and  
27 identified by the applicant, as having or claiming a potential interest in the coalbed methane gas  
28 in subject formation in subject drilling unit underlying and comprised of the subject land," and  
29 then here's a pretty significant part of this order—"representing zero percent of the oil and gas  
30 interest, zero percent of the coal interest, and 44.31% of surface of the subject drilling unit."  
31 Now, in 1993, when the Board entered this order, virtually anybody who had a surface interest,  
32 an oil and gas interest, a coal interest, or whatever, could come before this Board and say, I think  
33 the coalbed methane belongs to me and the Board had to deal with them, and subsequently, you

1 know we had the Harrison-Wyatt case involving this gentleman, who's had a share of litigation,  
2 where our Supreme Court said, gas is gas and the gas interest includes the coalbed methane  
3 interest. And then, a number of years based and we've had a more recent case that reaffirmed the  
4 Warren v. Clinchfield Coal case that said, if you had a deed that says we are conveying coal and  
5 other minerals, other minerals includes gas. Okay? And then, we had House Bill 2058, and  
6 House Bill 2058 in material part, and obviously was intended to address these kinds of issues, it  
7 says for a coalbed methane gas well that was force pooled prior to July 1, 2015, the Board, and  
8 skipping, "the Board shall order payment of the principal and accrued interest, less escrow  
9 account fees held in escrow, along with all future royalties attributable to the drilling unit, to  
10 each gas claimant." Okay, so essentially, we're here this morning saying, this thing was pooled a  
11 long time ago, surface owners made claims, and between the Supreme Court of the  
12 Commonwealth, making decisions clarifying the law, and then House Bill 2058, which directs  
13 you what to do when that happens, and this is an unusual unit, because the only company that  
14 will receive the escrowed funds are, you know, [Indiscernible] Leonard Wyatt's company, so it's  
15 a one owner deal. And so, we are saying this is now right for disbursement, and there are some  
16 companion units but we thought we'd start with one, and we would like to see that happen today.  
17 So, with that background in mind, Anita, have you done a Table 1?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Okay, and Table 1 is at, looks like PDF Page 5, and you're proposing to disburse  
20 which tract?

21 **Anita Duty:** Tract 1A.

22 **Mark Swartz:** And who would receive that disbursement?

23 **Anita Duty:** It would be paid to H.W. Financial, LLC.

24 **Mark Swartz:** And you provided the address?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** And, in computing the amount of the check, payable to H.W. Financial, the  
27 escrow agent should simply disburse 100% of the account, correct?

28 **Anita Duty:** Yes.

29 **Mark Swartz:** And, if that occurs, the escrow account could be closed?

30 **Anita Duty:** It can.

31 **Mark Swartz:** And you've provided a revised Exhibit E that shows that?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And in addition, you have provided the Board with a revised Exhibit EE, which  
3 provides for the going forward payments?

4 **Anita Duty:** This is not under one of the units.

5 **Mark Swartz:** So, you don't even need it?

6 **Anita Duty:** No.

7 **Mark Swartz:** Okay, okay, and here, let's just look. So, there's Exhibit E and Exhibit EE just  
8 shows 100%?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Okay. And then, have you attempted to do a reconciliation Exhibit J?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Okay, and in doing that, did you, as a first step, attempt to locate all royalty  
13 payments that the operators made into the escrow account?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And then, did you look for a corresponding deposit?

16 **Anita Duty:** We did.

17 **Mark Swartz:** Okay, and okay, it looks like you did not have issues. You were able to find a  
18 deposit for every royalty check?

19 **Anita Duty:** We were.

20 **Mark Swartz:** Okay, and did you do a calculation to estimate what you thought the bank  
21 balance should be, based on the numbers available to you?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And then, did you compare that to the March 2017 First Bank and Trust Balance?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And when you made the comparison, was there a difference?

1 **Anita Duty:** We are showing the bank has \$29.32 more. Even though it's red.

2 **Mark Swartz:** It should be black.

3 **Anita Duty:** It should be black.

4 **Mark Swartz:** Okay. And then you've provided the Board with an Exhibit B2?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And that's the name of an Exhibit that's used to dismiss people?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** Okay, and have you listed the surface owners in that dismissal exhibit?

9 **Anita Duty:** We have.

10 **Mark Swartz:** And we're requesting that they be dismissed, for the reasons that we explained in  
11 the beginning?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** That's all I have, Mr. Chairman.

14 **Butch Lambert:** Any questions from the Board? Ms. Duty, I think I heard you say this account  
15 will be closed?

16 **Anita Duty:** Yes.

17 **Butch Lambert:** Mr. Cooper, I have a question for you as staff of the Board, the accounts going  
18 to be showing \$29.32 left over. So, technically, you can't close that account?

19 **Rick Cooper:** No, that money will be included in the disbursement, so we will zero the account  
20 out and close it.

21 **Mark Swartz:** It's 100% of the money. That's what we're asking for.

22 **Anita Duty:** That's the interest and fees, so it's different.

23 **Butch Lambert:** Okay. Gotcha.

24 **Mark Swartz:** The problem is that we see regularly is that the interest and fees, we can't account  
25 for them, I mean, as the operator. You know, we can account for what we put in and what may  
26 have been disbursed over time.

1 **Butch Lambert:** Does the \$46,000 include that?

2 **Paul Kugelman, Jr.:** That's the entire balance of the account?

3 **Mark Swartz:** That's the entire balance.

4 **Paul Kugelman, Jr.:** According to the bank?

5 **Mark Swartz:** Well, as of March.

6 **Paul Kugelman, Jr.:** Right.

7 **Mark Swartz:** So, there may be some different fees and interest since then, which we haven't  
8 tried to account for, but, it's 100%, the company gets 100% of what's on hand and then the  
9 account closes.

10 **Butch Lambert:** Any other questions from the Board?

11 **Mary Quillen:** Just one thing I just want to clarify. This account is being disbursed under the  
12 House Bill rule, correct?

13 **Mark Swartz:** Yes.

14 **Mary Quillen:** Okay. Thank you.

15 **Mark Swartz:** You've got a gas owner and you're paying him. Or, at least that's what we're  
16 asking you to do.

17 **Tom Pruitt:** Nothing more. I believe that CNX has addressed the issues very adequately. We  
18 will note just for the Board's comfort that this one unit is not the only unit under these severance  
19 deeds and the Board has paid Harrison-Wyatt for their interests in the other surroundings, so  
20 same deed, same chain of title has been paid through the years [Indiscernible]

21 **Butch Lambert:** And I apologize. I forgot your name when we were doing introductions.

22 **Joe McGlothlin:** Joe.

23 **Butch Lambert:** Yeah, Joe. Mr. McGlothlin, what interest are you representing, as a family  
24 owner?

25 **Joe McGlothlin:** [Indiscernible]

26 **Butch Lambert:** Okay, and you want to object to this disbursement?

27 **Joe McGlothlin:** I do.



1 **Butch Lambert:** I guess we probably have to ask why he wants to object?

2 **Paul Kugelman, Jr.:** Yes sir.

3 **Butch Lambert:** What's the basis for your objection?

4 **Joe McGlothlin:** [Indiscernible] so the attorney's we've talked to, we were in court...and we  
5 were supposed to have 30 more days to let them look it over. I'm supposed to...and we don't  
6 have a case here...I'm not here to stop them from getting their money...that we have a chance to

7 **Butch Lambert:** Questions for comments from the Board?

8 **Paul Kugelman, Jr.:** May I?

9 **Butch Lambert:** Yes.

10 **Paul Kugelman, Jr.:** And this may address...I can see Mr. Swartz is sort of ready to jump in.  
11 Mr. McGlothlin, I certainly appreciate your position, and there are two things I want to note to  
12 the Board's benefit and for the folks at the table with counsel, and you sir; with respect to the  
13 disbursement petition before the Board, it is counsel's view that 45.1-361.22:2 Paragraph A,  
14 directs the Board to grant the petition because the petition has been filed, the appropriate time  
15 has passed, and no objections have been received, and no evidence of lawsuits have been tenured  
16 to the Board, so, with those facts before the Board as they are, it is counsels view that the Board  
17 must act on the petition. With respect to any rights you may have, Mr. McGlothlin, and your  
18 family may have, sub-paragraph F of this very same statute preserves any other rights you may  
19 have. So, you're not losing anything here, per se, if you speak with counsel and you feel, and  
20 your lawyers feel that you all have a claim to this, or an interest in these royalties that are being  
21 disbursed today, this disbursement does not preclude you or any member of your family from  
22 seeking what's rightfully yours, should that be the case.

23 **Joe McGlothlin:** [Indiscernible]

24 **Paul Kugelman, Jr.:** Yes sir. So, I know this isn't what you're looking for, but I wanted to let  
25 you know that this does not end your opportunity.

26 **Joe McGlothlin:** Thank you.

27 **Paul Kugelman, Jr.:** Yes sir.

28 **Butch Lambert:** Anything further, Mr. Swartz?

29 **Mark Swartz:** The only thing I would offer, I think we mailed May 11<sup>th</sup>, Anita?

30 **Anita Duty:** Yes.

1 **Mark Swartz:** And then when it was coming up in June, I got a call from several attorney's,  
2 asking for a continuance. I don't know if you recall that, but, so when we were here in June, and  
3 I said yes, and so when we were here in June, I asked you all to continue it for a month, we did  
4 that. So, you people have had since at least the middle of May to get organized for today. And I  
5 would also, in closing say, that they really have had since this Board order in 1993. I mean,  
6 nobody appealed this. Okay? You have a zero percent interest, and they've been on notice for, I  
7 guess that would be 24 years, you know, that this day was going to come. So, I think it's time to  
8 get the money out of escrow and, like counsel has said, the statute does not foreclose contract  
9 rights, Board rights, whatever, but it does get money out of escrow.

10 **Butch Lambert:** Anything further from the Board? If not, I'll ask for a motion?

11 **Bill Harris:** Motion made for approval, Mr. Chair.

12 **Mary Quillen:** Second.

13 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All  
14 in favor, signify by saying yes.

15 **Board:** Yes.

16 **Butch Lambert:** Opposed, no? [No response]

17 **Butch Lambert:** Thank you, Mr. Swartz and folks, that has been approved.

18 **Mark Swartz:** Thank you.

19 **Item Number 6**

20 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of  
21 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 6, a  
22 portion of Tracts 7 & 17, as depicted upon the annexed table; and (2) authorization to begin  
23 paying royalties directly to the parties listed in the petition. Docket Number VGOB 95-1024-  
24 0526-08. All parties wishing to testify, please come forward.

25 **Mark Swartz:** Mark Swartz and Anita Duty.

26 **Butch Lambert:** You may proceed, Mr. Swartz.

27 **Mark Swartz:** Anita, do you want to state your name for us, please?

28 **Anita Duty:** Anita Duty.

29 **Mark Swartz:** And you're here on behalf of the petitioner?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And who do you work for?

3 **Anita Duty:** CNX Land, LLC.

4 **Mark Swartz:** Okay, and this petition pertains to drilling unit BP-8 sealed gob Unit 1, correct?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And the reason for disbursement, or reasons, it looks like we've got a court  
7 decision. Correct?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And we've had some previous dismissals of coal owners on other visits, I think?

10 **Anita Duty:** Yes, we have.

11 **Mark Swartz:** Okay. Have you prepared a Table 1?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** Okay, let's go to that. Actually, you've got two tables. You've got a fixed, exact  
14 pay dollar amount table, Table 1, correct?

15 **Anita Duty:** Yes, we do.

16 **Mark Swartz:** And then you've got a Table 2, which is the typical percentage table that we see?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Okay, and the reason we have two tables is the usual once, that there's been a  
19 conveyance; there's been a sale?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And the prior owners are being compensated by Table 1 and the current owners  
22 are being compensated by Table 2?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** Okay. So, Table 1 seeks a fixed payment, fixed dollar amount payment. Right?

25 **Anita Duty:** It does.

1 **Mark Swartz:** In what amount?

2 **Anita Duty:** \$1,412.20 to Connie Street.

3 **Mark Swartz:** Okay, Connie Hess Street, right?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And you've provided her address?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Okay, and if we go to Table 2, that seeks a payment to several people, correct?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And, for each person who is to receive a payment or company, or a state, have  
10 you provided the name?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And have you provided a mailing address?

13 **Anita Duty:** We have.

14 **Mark Swartz:** And under Table 2, when the escrow agent goes to make those disbursements,  
15 the escrow agent should use the percentage in the third column from the right-hand side and  
16 apply that percentage to balance on hand and that will give them the dollar amount, right?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Okay. Do we need to mail any of these? Looks like you've got the W.S. Ellis  
19 Estate in care of James Huffman, right?

20 **Anita Duty:** Yes, but the check will actually go to Shea Cook's office.

21 **Mark Swartz:** Okay. So, it's made out to the W.S. Ellis Estate, care of James Huffman, but it  
22 should be mailed to Shea Cook?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** Okay, and obviously, this is a phased payout, so that the escrow agent needs to  
25 pay Table 1 first, otherwise, the math will be wrong?

26 **Anita Duty:** Yes, that's right.

1 **Mark Swartz:** Have you submitted revised Exhibits E and EE?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** Looks like we have some issues with Exhibit J, right?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** Okay. Did you attempt to identify all royalty checks that operators had provided  
6 to the various escrow agents?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And then, did you go looking for corresponding deposits?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And clearly, from the highlighting, there were instances where you were not  
11 successful in that endeavor?

12 **Anita Duty:** That's correct.

13 **Mark Swartz:** Okay. And those are highlighted in color and pretty easy to pick out and start  
14 right away?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And then, at times, if we go to PDF Page 29 of 57, we've got a bunch of brackets  
17 again, which shows some problems, but you were able to resolve them?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** So, in some instances, you were looking for corresponding deposits, they were  
20 harder to find than normal, but you found them?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And in some instances, you simply were unable to account for them?

23 **Anita Duty:** That's correct.

24 **Mark Swartz:** Okay. And have you exhausted your available resources in terms of trying to  
25 resolve the differences you haven't been able to resolve?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** Have you done a calculation at the last page of Exhibit J, to compare your  
2 calculations, regarding what you would expect the balance to be to the balance that the bank has  
3 on hand?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And is there a difference?

6 **Anita Duty:** First Bank and Trust has \$1,007.31 more.

7 **Mark Swartz:** And just from a common-sense standpoint, it looks like, although you couldn't  
8 find your deposits, most of them must have made their way into this account somehow?  
9 Otherwise, the balance would be way off.

10 **Anita Duty:** Right.

11 **Mark Swartz:** But we cannot account for that differential, as we sit here today?

12 **Anita Duty:** Right.

13 **Mark Swartz:** And you've attached a copy of the Consent to Create the Order, correct?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And the Certification of Prior Notices that you gave to the coal owners?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Is it correct that they were actually dismissed on prior occasions here?

18 **Anita Duty:** They were.

19 **Mark Swartz:** Okay, and it looks like from the mailing, you had to mail several times to get  
20 them all, but you did?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** That's all I have, Mr. Chairman.

23 **Butch Lambert:** Any questions from the Board? [No response] Anything further, Mr. Swartz?

24 **Mark Swartz:** No.

25 **Butch Lambert:** Do I have motion?

1 **Rick Cooper:** Mr. Chairman, just for clarity, I had one question to make sure we know who the  
2 checks on behalf, Shea Cook receives the checks on behalf of W.S. Ellis Estate only?

3 **Anita Duty:** Yes.

4 **Rick Cooper:** Thank you.

5 **Butch Lambert:** Do I have a motion?

6 **Donnie Ratliff:** Motion made, Mr. Chairman.

7 **Bill Harris:** I'll second that.

8 **Butch Lambert:** I have a motion and I have a second. Any further discussion?

9 **Mary Quillen:** I just have one question. Is there an affidavit for that, stating that we send that  
10 check to Shea Cook?

11 **Paul Kugelman, Jr.:** Ms. Quillen, do you have a page for that? I'm sorry.

12 **Bill Harris:** She's referring to Table 2.

13 **Mark Swartz:** It isn't in this application, but...

14 **Anita Duty:** We have filed for other units with this same court order, and I can have the  
15 affidavit loaded.

16 **Mark Swartz:** Meaning, we've got one but it didn't get loaded here.

17 **Anita Duty:** Right. It's been loaded in the other petitions and I think we must have just  
18 overlooked it this time.

19 **Paul Kugelman, Jr.:** The other petitions pending today or just previously?

20 **Mark Swartz:** In the past.

21 **Anita Duty:** Previously.

22 **Butch Lambert:** You'll submit that affidavit to Mr. Cooper?

23 **Anita Duty:** Yes, we'll get it loaded here in a few minutes.

24 **Butch Lambert:** Oh, can't beat that. A few minutes. Any other questions?

25 **Donnie Ratliff:** Mr. Chairman, there are several Ratliff's on Exhibit E that I don't know any of  
26 them. There's no relationship there, but I just wanted to put that on record.

1 **Butch Lambert:** Okay, thank you, Mr. Ratliff. Nothing further, do I have a motion?  
2 **Donnie Ratliff:** Motion made for approval.  
3 **Butch Lambert:** We did that already?  
4 **Bill Harris:** Second. Yes.  
5 **Butch Lambert:** Okay, great. All in favor, signify by saying yes.  
6 **Board:** Yes.  
7 **Butch Lambert:** Opposed, no? [No response] Thank you, Mr. Swartz. That one is approved.

8 **Item Number 7**

9 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of  
10 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 12,  
11 and a portion of Tract 16B, as depicted upon the annexed table; (2) dismissal of surface owners  
12 in Tract 12. Docket Number VGOB 97-0617-0587-05. All parties wishing to testify, please come  
13 forward.  
14 **Mark Swartz:** Mark Swartz and Anita Duty.  
15 **Rick Cooper:** And I believe Mr. McGlothlin has already been sworn in previously.  
16 **Butch Lambert:** You may proceed, Mr. Swartz.  
17 **Mark Swartz:** Thank you. Anita, would you state your name for us again?  
18 **Anita Duty:** Anita Duty.  
19 **Mark Swartz:** And are you here on behalf of the petitioner?  
20 **Anita Duty:** Yes.  
21 **Mark Swartz:** And this is a petition to obtain disbursements from an escrow account pertaining  
22 to drilling unit BP-8 sealed gob Unit 2, correct?  
23 **Anita Duty:** Yes.  
24 **Mark Swartz:** And the basis or reason for the disbursement request is we have some gas  
25 claimants. Correct?  
26 **Anita Duty:** Yes.



1    **Mark Swartz:** And obviously, we want to make use of House Bill 2058?

2    **Anita Duty:** Yes.

3    **Mark Swartz:** Have you provided a Table 1?

4    **Anita Duty:** Yes.

5    **Mark Swartz:** And this is a percentage table?

6    **Anita Duty:** It is.

7    **Mark Swartz:** And there are two people that are proposed to receive, one company and one  
8    person, that are proposed to receive the disbursements. Correct?

9    **Anita Duty:** Yes.

10   **Mark Swartz:** H-W Financial and Darrell Blankenship, right?

11   **Anita Duty:** Yes.

12   **Mark Swartz:** And in the second column from the right-hand side, have you provided the  
13   escrow agent with the percentages it should use to calculate the dollar amounts, by multiplying  
14   that times the balance on hand as of the disbursement date?

15   **Anita Duty:** We have.

16   **Mark Swartz:** Okay. Have you provided a revised Exhibit E?

17   **Anita Duty:** Yes.

18   **Mark Swartz:** And if the two disbursements are made, that should zero out this escrow account  
19   for this sealed gob unit?

20   **Anita Duty:** It will.

21   **Mark Swartz:** And going forward, you provided us with an Exhibit EE, which is the going  
22   forward payment stream?

23   **Anita Duty:** Yes.

24   **Mark Swartz:** Did you prepare and Exhibit J?

25   **Anita Duty:** Yes.

1 **Mark Swartz:** And when you did that, did the first thing you did, look for royalty payment  
2 checks?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And then, did you look for a corresponding deposit?

5 **Anita Duty:** We did.

6 **Mark Swartz:** Okay, and have you highlighted the instances, in which, you were not able to  
7 find one, a corresponding deposit in color?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And have you used brackets to indicate checks that were written, but then  
10 ultimately, corresponded with a deposit that captured that?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And at the end of the day, have you done a comparison calculation?

13 **Anita Duty:** We did.

14 **Mark Swartz:** Okay, and you calculated what your estimate of the bank balance and you  
15 compared that to the April 17th First Bank and Trust balance. Correct?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And was there a difference?

18 **Anita Duty:** First Bank and Trust has \$441.46 less than our calculation.

19 **Mark Swartz:** And that red is correct on this one?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** With regard to the coal dismissals, you have provided that information. Correct?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And to the extent Harrison-Wyatt is not receiving it, or H-W Financial is not  
24 receiving a disbursement, they're dismissed, but obviously not to the extent [Indiscernible]?

25 **Anita Duty:** Right.

1 **Mark Swartz:** And do we have any special mailing instructions here, or is Table 1 correct?

2 **Anita Duty:** It's correct.

3 **Mark Swartz:** And this is a very similar situation to what we dealt with before, we're just  
4 paying the gas owner. That's all I have.

5 **Butch Lambert:** Again, I'll ask the question, this will close the account?

6 **Mark Swartz:** Yes.

7 **Butch Lambert:** If this closes the account, the amount in Table 1, doesn't equal the amount  
8 reconciled in Exhibit J, and there's still a big difference. So, where's the difference going to be  
9 made up?

10 **Mark Swartz:** It's not going to be made up. The people receiving the disbursement are going to  
11 be receiving less than our calculations would indicate. And the underlying problem with that  
12 answer, doesn't sound great but it isn't as bad as it sounds. I don't know what the impact of the  
13 total fees and the total interest, you know, I mean, it could just be upside down because of fees. I  
14 don't think it is, but part of that could be fees. I mean, we just don't know.

15 **Bill Harris:** You know, I think I suggested years ago, we just pool all of the excess money and  
16 then, to some, dare I use the word slush fund, but to pay out accounts that were under, or  
17 appeared to be under funded. Has the office ever had for the whole year or whatever that some of  
18 these are under, some that are over, do they tally anywhere near. I mean, there was no reason to  
19 expect them to be tallied to zero, but...

20 **Rick Cooper:** If you're asking if we balance the negative plus positive, we have not.

21 **Bill Harris:** Yes, I'm just curious to...

22 **Mark Swartz:** I need to take back a representation that I made. We do have what the bank has  
23 told us their fees and interests are, and we report that in this table. It's roughly \$10,000, so...

24 **Butch Lambert:** In this instance, if I add up Table 1 that the two parties in Table 1, it's still less  
25 than what the bank is showing. Minus what the difference is, what you're saying. If you add up  
26 the two accounts, it's \$88,122.00 and you're saying the bank is showing \$88,739.00.

27 **Anita Duty:** Those could have been done in two different periods of time. I mean, we could  
28 have done the reconcile and reported in April and depending on the balance that this table was  
29 based off of, could be maybe May. But, they should use whatever's on deposit at the time the  
30 disbursement is made.

1 **Paul Kugelman, Jr.:** If I understand the process right, basically the petition is, we want to  
2 disburse 100% of what's in the escrowed account and the number that you provide may or may  
3 not be accurate for today. It's not that it's inaccurate or sloppy representation, it's just things  
4 could have changed between the time you did the reconciliation and today.

5 **Anita Duty:** I mean, I'm sure they have because we have to, at a certain point in time, when we  
6 file it, that's just...

7 **Paul Kugelman, Jr.:** But when the disbursements ordered, it's ordered by percentage of the  
8 balance not a fixed number?

9 **Anita Duty:** Correct.

10 **Paul Kugelman, Jr.:** So, if it's 100%, it doesn't matter what the number is, 100% goes out, and  
11 if it's 90/10, no matter what the balance is, it's split 90/10?

12 **Anita Duty:** Right.

13 **Butch Lambert:** Except we wouldn't see a \$441.00 in one month and this small amount of  
14 money.

15 **Anita Duty:** Well, I mean, we're showing you where we're finding the differences, I mean in  
16 that, we're highlighting them in yellow. We're showing you...

17 **Donnie Ratliff:** So, Mr. Chairman, if you have a box in your excel sheet that's yellow, that's  
18 blank, does that mean, you're missing a deposit?

19 **Anita Duty:** Yes, like on the CNX side, we'll show, like the very first one will show, in January  
20 of 1999, we're showing we made a deposit of \$480.71. Well, when you look on the other side,  
21 you see \$422.50. So, we're telling you, well no, \$422.50 goes to the previous month, so we're  
22 telling you that we didn't find \$480.71 on the bank side. Now when we put a bracket around it,  
23 that means we have maybe two CNX deposits but on the other side, we're finding it maybe in a  
24 later month. So, we're identifying where we can't reconcile but at the end of the day, the net is  
25 \$422.00.

26 **Donnie Ratliff:** Most of those were with old escrow agents.

27 **Anita Duty:** Yes, this account goes back to 1998.

28 **Butch Lambert:** So, just so that I understand what Mr. Swartz was saying and Mr. Kugelman  
29 was saying, this account will be zeroed out with the moneys in there but we're still going to be  
30 short? Somebody's going to be short, I forget now.

31 **Donnie Ratliff:** Roughly \$400.00.

1 **Butch Lambert:** Roughly \$400.00.

2 **Anita Duty:** I mean, this is not unusual, I mean, we've been bringing these before the Board for  
3 months.

4 **Butch Lambert:** I understand that, but we're getting down to the, as we've talked about the last  
5 few, we're getting down to the end and trying to figure this out because, surely we're going to  
6 know, somebody's going to be short money or we're going to be over some, and what do we do  
7 with those funds? And now is the time for us to start having those discussions about...we have  
8 an account now with how much, \$13,000.00 in it that we don't know where it goes and what  
9 we're going to do with it?

10 **Rick Cooper:** We do.

11 **Butch Lambert:** Now we're starting to see accounts, since we're winding down, that are being  
12 short and we can't reconcile those. We don't know where the money went to or who put it in. So,  
13 I guess it's time to start asking those hard questions about how we make up differences or how  
14 do we account for the overages, and where does that money go?

15 **Mark Swartz:** I guess in a perfect world, to go with your way of thinking, at some point in the  
16 future, we will know what that balance, plus or minus, is. You know, in a perfect world, will be  
17 find in that account, the money that we can't account for here and can we go back and settle up  
18 with people who were short? You know? I don't know. I mean, that's a decision you guys need  
19 to make, but I'm not sure that ultimately is going to work either, with the accounting issues that  
20 we've seen with the First Banks, but....

21 **Mary Quillen:** Well, it looks like the fees can't, I don't see how it's possible to assign those fees  
22 to every single one of these. It's assigned over a lump sum of money. How do you distribute  
23 that?

24 **Mark Swartz:** I don't know how they assigned these fees. We can calculate what they show.

25 **Mary Quillen:** The interest, yes, how that is, yes.

26 **Mark Swartz:** in their monthly report, you know, in which Anita is giving you a total. But,  
27 you're right, I don't know how the banks...

28 **Anita Duty:** [Indiscernible]

29 **Mark Swartz:** Yeah, but we've never seen that, you know, and there could be errors embedded  
30 in that. It's got to be some kind of allegation process, you know, I assume it's not just pick a  
31 number. And we don't know that.

1 **Butch Lambert:** I can see there's times where the Board might have to say to companies, your  
2 accounts short, put the money back in.

3 **Mary Quillen:** [Over talk] These are assigned to a lump sum. This whole thing.

4 **Mark Swartz:** We've paid it. When we do our number, we paid what we should have, the bank  
5 is missing the money.

6 **Butch Lambert:** I'm not sure that statement is correct, because we've got blocks in here with  
7 no, that the company can't account for.

8 **Anita Duty:** The left side is CNX, the right side is the bank. I mean, we wouldn't know that it  
9 was short if we hadn't made a deposit. If we make a deposit and we don't see it in the banks  
10 records, that's not CNX, that's the bank.

11 **Butch Lambert:** Yeah, okay. We'll move on. You've advised me and we'll move on.

12 **Mark Swartz:** We've actually made those deposits and they're not showing up and we can't,  
13 we put a check in the bank and it didn't get registered to the account it should have, and it was  
14 cashed. I don't know what the heck.

15 **Anita Duty:** We only have the records that were available to us from the DGO's office. They  
16 could actually be there is why it washes out in some of these.

17 **Butch Lambert:** You know, we've blamed a lot of these on Wachovia and prior, but at some  
18 point, we're going to have to fix what's missing from Wachovia Bank, somehow. That's all I'm  
19 saying. We're going to face those issues as we start dwindling these accounts down and start  
20 closing accounts.

21 **Bill Harris:** One of my concerns, again years ago, was if the over accounting shows that there's  
22 \$500.00 excess that you all show, when the bank writes the check, do they write that \$500.00 out  
23 to people that, but it's \$500.00 short, then it's not done. That's why I ask was there, and again, I  
24 called it a slush fund, anytime it's over you shave that off and drop it into a bucket; anytime it's  
25 under, take it from that bucket.

26 **Mark Swartz:** Well, we have not been doing that.

27 **Bill Harris:** Yeah, I know.

28 **Mark Swartz:** The account gets zeroed out. Whatever.

29 **Bill Harris:** Yes. I understand.

30 **Mark Swartz:** And that's your point.

1 **Bill Harris:** But that's what I'm saying, that, is that what the \$16,000.00 comes from? Where  
2 does that?

3 **Rick Cooper:** So, actually, we have two different accounts. One of the accounts, CNX came  
4 back in front of the Board a year or so ago, and they had found some dollars that they couldn't  
5 account for, so we have that in one of the funds; and then one of the other funds, we have a little  
6 over \$4,000.00. Wachovia sent us a check back and said that they did not know where the money  
7 went. So, we have that established and we call it a Wachovia Checking. That \$4000.00 set in  
8 there also. They could not determine where the money was supposed to have gone, they should  
9 send us a check for a lump sum. It wasn't broken down in any manner. So, they did not have any  
10 idea where that \$4000.00 went.

11 **Bill Harris:** I mean to me, yeah, that's your slush fund. I'm not using the appropriate financial  
12 terms. [Indiscernible] when you say that.

13 **Mary Quillen:** Yeah, I don't think that is appropriate. Because it's not been used.

14 **Butch Lambert:** Okay, well, we'll move on and continue these discussions later.

15 **Mark Swartz:** It is a point that, you know, you might want to address on some basis going  
16 forward.

17 **Butch Lambert:** Well, counsel, before he left, he said he has an idea. We'll talk with him about  
18 it. We'll move on with that one and this account will be closed. Any other questions or  
19 comments from the Board? [No response] Anything further, Mr. Swartz?

20 **Mark Swartz:** No.

21 **Butch Lambert:** Mr. McGlothlin.

22 **Joe McGlothlin:** I'm here again to ask continuance of this petition under the circumstance, until  
23 they reconcile the account, it might be a good idea to give us another 30 days [Indiscernible]

24 **Butch Lambert:** Thank you, Mr. McGlothlin. I think what our counsel advised us in the  
25 previous, probably still will apply. You still have your rights in place. We would have to  
26 disburse.

27 **Donnie Rife:** You don't lose any rights. You still can make your claims and all this, but it's up to  
28 us to agree to make the disbursement.

29 **Butch Lambert:** Mr. Kugelman.

30 **Paul Kugelman, Jr.:** Thank you, Mr. Chairman.

31 **Mary Quillen:** Mr. Swartz, this is the same? It does fall under the House Bill jurisdiction?

1 **Mark Swartz:** Right.

2 **Mary Quillen:** Thank you.

3 **Butch Lambert:** Mr. Kugelman.

4 **Paul Kugelman, Jr.:** Thank you, Mr. Chairman. Mr. McGlothlin's point actually makes it  
5 appropriate for me to raise the thought that I had earlier. The Board is rightfully, very concerned  
6 about the accounting and all that shakes out, but when we look at the operation of 361:22:2, the  
7 Board is charged with disbursing under certain conditions, and those conditions do not take into  
8 account this concern that the Board has. I'm not saying that it's not a valid concern; I'm saying  
9 that it's not a concern that the Board can weigh in making a determination on the disbursement  
10 petition under 22:2. With respect to any rights folks may have, with respect to under or over  
11 payment, sub-paragraph F actually is, charges, you know, the statute, although not primarily  
12 designed, but is designed to preserve these rights so that individuals can take care of this and  
13 alleviates the Board of the responsibility of holding up petitions. The money goes out; if an  
14 individual feels they've been underpaid or the gas operator feels they've overpaid, there's a right  
15 there where they can go back in their own individual lawsuit against the other, to recover the  
16 difference. So, getting to the point, is basically the way the law is designed, it's not really  
17 something the Board should be overly concerned with, legally. However, I understand that  
18 maybe there's some legal discussion we need to have in closed session, if the Board is interested  
19 in discussing this further.

20 **Butch Lambert:** Any discussion from the Board about Mr. Kugelman's suggestion? A closed  
21 session for discussion?

22 **Donnie Ratliff:** Do that at another time [Indiscernible]

23 **Butch Lambert:** Well, I don't think you're saying do it now?

24 **Paul Kugelman, Jr.:** No sir.

25 **Butch Lambert:** Probably at the next Board, schedule it at the next Board meeting.

26 **Paul Kugelman, Jr.:** Yes, because there's, if we're going to go into closed session, I should  
27 have one handy, but there's a form that we have to announce to comply with FOIA.

28 **Butch Lambert:** We'll get that on the docket for the August hearing. [Indiscernible]

29 **Mark Swartz:** No.

30 **Butch Lambert:** Do I have a motion?

31 **Donnie Rife:** Motion made, Mr. Chairman.



1 **Mary Quillen:** Second.

2 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All  
3 in favor, signify by saying yes.

4 **Board:** Yes.

5 **Butch Lambert:** Opposed, no? [No response] Thank you, Mr. Swartz. That one is approved.

6 **Item Number 8**

7 **Butch Lambert:** Item Number 8 has a party, Loeita Austin Lambert; the Chairman does not  
8 think he knows or is aware of this person, but I'm going to recuse myself and ask Mr. Ratliff to  
9 take this one for me, please.

10 **Mr. Ratliff:** A petition from CNX Gas Company, LLC, for (1) the disbursement of escrowed  
11 funds deposited with the Board's Escrow Agent, attributable to Tract 1C. It's Docket Number  
12 VGOB 03-0715-1158-02. Unit Number AX100. All parties interested, may proceed.

13 **Mark Swartz:** Mark Swartz and Anita Duty.

14 **Donnie Ratliff:** Okay.

15 **Mark Swartz:** Anita, state your name for us, please.

16 **Anita Duty:** Anita Duty.

17 **Mark Swartz:** Are you here on behalf of the petitioner?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And this is a petition requesting a disbursement, from the escrow account that  
20 was created for AX100. Correct?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And the reasons for the request are, on the one hand, we have some royalty split  
23 agreements, correct?

24 **Anita Duty:** We do.

25 **Mark Swartz:** And, in addition, we have some gas claimants under the House Bill?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** Have you prepared a Table 1?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** A pretty good list of folks there in Tract 1C, right?

3 **Anita Duty:** There is.

4 **Mark Swartz:** And, I assume, the people that have 50%, that would indicate an agreement, or a  
5 split agreement?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And the people that have 100%, that would indicate those people are being paid  
8 pursuant to the House Bill?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Just [Indiscernible] and with regard to everyone on Table 1, when the escrow  
11 agent sits down to determine the amounts payable to the various people, should the escrow agent  
12 use the percentages in the second column from the right-hand side, multiply those percentages  
13 times the balance on hand to generate the dollar amount?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Okay. With regard to the people that we're requesting receive disbursements,  
16 have you provided the company name or the person's name in all instances?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And have you provided a mailing address?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** Are there any special instructions with regard to mailing?

21 **Anita Duty:** No.

22 **Mark Swartz:** Have you provided an amended or updated Exhibit E and EE, in the event the  
23 petition is granted?

24 **Anita Duty:** We have.

25 **Mark Swartz:** And again, we have an Exhibit J with some issues?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** And have you highlighted the ones that you couldn't resolve in that sort of awful  
2 green?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Okay, and the ones that you initially thought were problems but were able to  
5 resolve by analysis, you've bracketed to show that it's not immediately apparent that it happened  
6 but the money found its way into the account?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And this is one of those where the problems were pretty much in the beginning,  
9 right?

10 **Anita Duty:** It is.

11 **Mark Swartz:** Back in '05 and '06 and fortunately did not continue?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** And have you done your reconciliation calculation?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And was there a difference between what you came up with when you compared  
16 it to the April 17th First Bank and Trust balance?

17 **Anita Duty:** First Bank and Trust is showing \$62.32 more.

18 **Mark Swartz:** Than you [Indiscernible] with your prior, to confirm that you previously gave  
19 notice to the coal owner that's being dismissed, with regard to the gas claimant claims, not the  
20 split agreement?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And you've shown your notice to H-W or Harrison-Wyatt. Right?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** I think that's all I have, Mr. Chairman.

25 **Donnie Ratliff:** Under Table 1, Ms. Duty, what's the date of the reconciliation?

26 **Anita Duty:** The last date we're showing is April 30, 2017.

27 **Donnie Ratliff:** Any other questions?

1 **Rick Cooper:** Mr. Chairman?

2 **Donnie Ratliff:** Yes sir.

3 **Rick Cooper:** So, we have not received notice from Beatrice MacCormac. She would be number  
4 5 on the table. I think it was return to sender, address unknown. So, we have not received  
5 verification of notice on Ms. MacCormac.

6 **Mark Swartz:** Of course, we have a W-9 for her.

7 **Paul Kugelman, Jr.:** So, you have a W-9 for her?

8 **Mark Swartz:** Because, otherwise, we wouldn't be here asking for a payment.

9 **Paul Kugelman, Jr.:** Was it mailed to the same address reflected on the W-9? It was?

10 **Anita Duty:** That's the only address we have.

11 **Paul Kugelman, Jr.:** Are you looking for the W-9 as we speak? Is that what's going on?

12 **Anita Duty:** Yes.

13 **Paul Kugelman, Jr.:** Okay. When did she submit it?

14 **Anita Duty:** April 2010, then we have change of address that she filled out and signed on April  
15 2013.

16 **Paul Kugelman, Jr.:** That's the address notice was sent to? The 2013?

17 **Anita Duty:** The 2013. Yes.

18 **Donnie Ratliff:** Mr. Cooper, the documents you sent were returned?

19 **Rick Cooper:** Yes. Return to sender, address unknown, from the postal service. And, I believe  
20 she's on the uncashed check list also.

21 **Paul Kugelman, Jr.:** Oh, is she?

22 **Rick Cooper:** Yes.

23 **Donnie Ratliff:** Mr. Swartz, you want to remove her from Table 1 and proceed?

24 **Mark Swartz:** We can do that.

25 **Donnie Ratliff:** That way we don't hold up everything else. You'll send us a new exhibit?

1 **Rick Cooper:** So, if we get the revised exhibits, we'll go ahead and disburse. Okay?

2 **Anita Duty:** We'll get those uploaded today.

3 **Donnie Ratliff:** Anything else, Mr. Swartz?

4 **Mark Swartz:** No.

5 **Donnie Ratliff:** Questions from the Board? [No response] Do we have a motion to approve the

6 docket item as presented, with the exception of Beatrice MacCormac and 1C. CNX will offer us

7 revised exhibit to reflect that?

8 **Donnie Rife:** Motion made for approval.

9 **Donnie Ratliff:** A second?

10 **Bill Harris?** I'll second.

11 **Donnie Ratliff:** Any further discussion? [No response] All in favor, say yes.

12 **Board:** Yes.

13 **Donnie Ratliff:** Those opposed, say no. [No response]

14 **Butch Lambert:** Abstention.

15 **Donnie Ratliff:** One Abstention, Mr. Lambert.

16 **Item Number 9**

17 **Butch Lambert:** A petition from CNX Gas Company, LLC, for 1) the disbursement of

18 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 1C, as

19 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the

20 parties listed in the petition. Docket Number VGOB 05-0517-1447-03. All parties wishing to

21 testify, please come forward.

22 **Mark Swartz:** Mark Swartz and Anita Duty.

23 **Butch Lambert:** You may proceed, Mr. Swartz.

24 **Mark Swartz:** Thank you. Anita, state your name for us, please.

25 **Anita Duty:** Anita Duty.

26 **Mark Swartz:** And are you here on behalf of the petitioner?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And this is a petition for disbursement?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** The escrow account maintained for BA122?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And the reasons for the request are, we've got a royalty split agreement and  
7 we've got, that's it, I guess. Okay. Let's go to Table 1, and that reflect 50/50, so that's the  
8 underlying reason it would be the split agreement. Right?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And on Table 1, have you given the name of the people and the company that are  
11 to receive the disbursement?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** And you've given addresses for both of them?

14 **Anita Duty:** We have.

15 **Mark Swartz:** And, you've indicated in the second column from the right-hand side of Table 1,  
16 you've given the escrow agent an equal percentage to use to calculate the dollars that should be  
17 paid to each of these folks on disbursement?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And, there's still going to be an escrow requirement, so you've provided a  
20 revised Exhibit E?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And, also a revised Exhibit EE, with regard to payments going forward?

23 **Anita Duty:** We have.

24 **Mark Swartz:** And then we have an Exhibit J here, which from the brackets, you had a couple  
25 of issues but you were able to resolve them?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** And so when you went looking for the royalty checks that the operator had paid,  
2 you were actually able to find a correspondent deposit for all of them?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Then you did your calculation at the end and compared that to the bank balance  
5 on April 30, 2017, and incredible there was no difference?

6 **Anita Duty:** There wasn't.

7 **Mark Swartz:** Well, I mean, how often do we see this? And then you've got a copy of the split  
8 agreement, it looks like?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** That's all I have, Mr. Chairman.

11 **Butch Lambert:** Questions from the Board? [No response] Anything further, Mr. Swartz?

12 **Mark Swartz:** No.

13 **Butch Lambert:** Do I have a motion?

14 **Donnie Rife:** Motion made for approval, Mr. Chairman.

15 **Bill Harris:** Second.

16 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All  
17 in favor, signify by saying yes.

18 **Board:** Yes.

19 **Butch Lambert:** Opposed, no? [No response]

20 **Butch Lambert:** Thank you, Mr. Swartz, that one is approved.

21 **Item Number 10**

22 **Butch Lambert:** A petition from CNX Gas Company, LLC, for pooling under Oakwood  
23 Coalbed Methane Gas Field I. Docket Number VGOB 17-0718-4134. All parties wishing to  
24 testify, please come forward.

25 **Mark Swartz:** Mark Swartz and Anita Duty.

26 **Butch Lambert:** You may proceed, Mr. Swartz.

27 **Mark Swartz:** Thank you. Anita, state your name, please.

1    **Anita Duty:** Anita Duty.

2    **Mark Swartz:** Who do you work for?

3    **Anita Duty:** CNX Land, LLC.

4    **Mark Swartz:** And are you here on behalf of the applicant?

5    **Anita Duty:** Yes.

6    **Mark Swartz:** The applicant is CNX Gas Company, LLC, right?

7    **Anita Duty:** Yes.

8    **Mark Swartz:** And is CNX Gas Company, LLC a Virginia Limited Liability Company?

9    **Anita Duty:** It is.

10   **Mark Swartz:** Is it authorized to do business in the Commonwealth?

11   **Anita Duty:** Yes.

12   **Mark Swartz:** Has it registered with the Department of Mines, Minerals, and Energy?

13   **Anita Duty:** Yes.

14   **Mark Swartz:** Does it have a blanket bond on file?

15   **Anita Duty:** It does.

16   **Mark Swartz:** Have you listed the respondents in the both the notice and Exhibit B3, attached to  
17   the notice and application?

18   **Anita Duty:** Yes.

19   **Mark Swartz:** Do you want to dismiss any people on the list of respondents?

20   **Anita Duty:** Yes.

21   **Mark Swartz:** And, have you done that because of things that have happened since you filed?

22   **Anita Duty:** Yes.

23   **Mark Swartz:** And have you uploaded an Exhibit B3, with regard to that, or do you have that  
24   with you?



1    **Anita Duty:** We've uploaded a revised exhibit.

2    **Mark Swartz:** So, what has happened between when you filed this and today, that has required  
3    dismissal?

4    **Anita Duty:** We've been able to lease.

5    **Mark Swartz:** Some additional people?

6    **Anita Duty:** Yes.

7    **Mark Swartz:** Okay, and your Exhibit B2, it names those people?

8    **Anita Duty:** It does.

9    **Mark Swartz:** It's a fairly long list?

10   **Anita Duty:** No, it's actually Earl Inman and we had an update to the heirs of David Boyd.

11   **Mark Swartz:** Oh, okay. So, the two things that the new Exhibit B, two addresses, would be  
12    dismissing Earl Inman, because he's leased?

13   **Anita Duty:** Yes.

14   **Mark Swartz:** And updating who?

15   **Anita Duty:** Roger Lockhart and Frances Lockhart, with the corrected interest.

16   **Mark Swartz:** Okay, and that's taken care of by the B2?

17   **Anita Duty:** Yes.

18   **Mark Swartz:** Other than B2, the folks identified on Exhibit B2, do you want to dismiss  
19    anybody else?

20   **Anita Duty:** No.

21   **Mark Swartz:** Do we need to add anybody else?

22   **Anita Duty:** No.

23   **Mark Swartz:** What did you do to notify the respondents and other people who might be  
24    interested in this proceeding today that we were going to have a hearing?

25   **Anita Duty:** We mailed by Certified Mail, Return Receipt Requested on June 1, 2017,  
26    published the notice and location map in the *Bluefield Daily Telegraph* on June 6<sup>th</sup>.

1 **Mark Swartz:** And what interest are we seeking to pool here?

2 **Anita Duty:** 3.2824% of the oil and gas interest.

3 **Mark Swartz:** And you've provided and Exhibit B3, which shows the individual interest for

4 each of the respondents. Correct?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** Subject to B2?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And it shows the acreage, which when this was filed, there were 2.6472 acres out

9 of this unit that needed to be escrowed?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** And this is an Oakwood unit, right?

12 **Anita Duty:** It is.

13 **Mark Swartz:** But it's a somewhat larger unit, because it's on a boundary and it has 86.885

14 acres? I obviously had a math error. It's an 80-acre unit, right?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Okay, good. So out of 80 acres, at least when it was filed, there were 2.6472

17 acres that were unleased. Right?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Okay. Then, have you provided well cost estimates?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And you're proposing two wells for this unit?

22 **Anita Duty:** We are.

23 **Mark Swartz:** And if we look at the plat for the unit, you've given the locations of these wells?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And it appears both of them would be within a drilling window.

1 **Anita Duty:** They would.

2 **Mark Swartz:** And the cost estimates, if you could break those out by well.

3 **Anita Duty:** For R-1, the estimated cost is \$317,581.00. The estimated depth of 1,900 feet; R-  
4 1A, estimated cost \$339,443.00; estimated depth 2,400 feet.

5 **Mark Swartz:** Neither of those have been drilled and you don't have permits yet?

6 **Anita Duty:** Correct.

7 **Mark Swartz:** You've provided the Board with, I believe you have, an Exhibit E, there's an  
8 escrow requirement here, right?

9 **Anita Duty:** There is.

10 **Mark Swartz:** And that's because we have some unknown and unlocatables?

11 **Anita Duty:** We do.

12 **Mark Swartz:** And the escrow requirement pertains to, it looks like, total acres, is that right or  
13 is that just for that.

14 **Anita Duty:** No, that's the only tract.

15 **Mark Swartz:** So the total acreage being escrowed is what acreage amount?

16 **Anita Duty:** 0.1177.

17 **Mark Swartz:** And that represents what percentage of the unit?

18 **Anita Duty:** 0.1472.

19 **Mark Swartz:** .1472 okay. And that's shown at the foot of Exhibit E, right?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And, you've provided us with an Exhibit EE, payment going forward?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And, provided us with some information regarding title of final order, in this  
24 case, right?

25 **Anita Duty:** Yes.

1 **Mark Swartz:** With regard to acreage pertaining to this unit, and I believe that's all I have on  
2 the exhibits, and then my questions for you are, remaining questions are, is drilling two wells in  
3 this 80-acre unit, in your opinion, a reasonable way to develop the coalbed methane?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And if the Board enters a pooling order here, pooling the outstanding interests of  
6 roughly 3.28 percent and we combine that with the acquisitions and leases that the applicant has  
7 been able to obtain, will the correlative rights of all parties be protected?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And with regard to standard lease terms for people who have not leased, what  
10 would your recommendations to the Board be?

11 **Anita Duty:** \$5.00 per acre, per year with a 5-year paid up term and a 1/8 royalty.

12 **Mark Swartz:** That's all I have, Mr. Chairman.

13 **Butch Lambert:** Was B2 a revised exhibit, because I don't have a B2?

14 **Mark Swartz:** No, it's a brand-new exhibit.

15 **Butch Lambert:** Was it uploaded after we got out docket?

16 **Mark Swartz:** Yes, well, maybe. See what happens is when we file this, we would never file a  
17 B2, because a B2 addresses people that we named that we want to dismiss or people that we  
18 missed that we want to add, so we never file them in the beginning. So, it depends when did it  
19 get to them in terms of whether or not it got to your packet and it looks like, because I don't have  
20 it in mine, when I was looking at this last night, I don't have it either.

21 **Butch Lambert:** Okay, do we have it, Mr. Cooper?

22 **Rick Cooper:** Give us just a couple seconds here. And I will let you know that they have already  
23 uploaded the Shea Cook letter, that we talked about earlier.

24 **Mary Quillen:** Thank you.

25 **Rick Cooper:** So, it has already been uploaded. Yes, we do have that.

26 **Butch Lambert:** Any other questions from the Board?

27 **Mark Swartz:** It's interesting that somehow, just out of curiosity, it looks like when you do the  
28 docket, Sarah, it locks that link and it's not updated by stuff and it's taken me a long time to

1 figure that out. I think I realized that like a couple days ago, but the link that we get that we click  
2 on, to look at a file, that's locked as of the day that she does it, because I'll get on and look  
3 behind and I'll see this stuff like this for example, but it doesn't, and I'm not suggesting that you  
4 need to correct that, but that's why we are sometimes, including me, because I'll get here and  
5 Anita will say, well we got these and I'm like really? You know?

6 **Butch Lambert:** That's okay.

7 **Mark Swartz:** Yeah, but that's why.

8 **Butch Lambert:** As long as it's uploaded and they get it.

9 **Rick Cooper:** So, we do lock that up when we publish the docket.

10 **Mark Swartz:** I'm not saying it's a problem, it's just it took me a while to figure that out  
11 because it does not update. Just like your question: why don't I have this, you know?

12 **Butch Lambert:** I just want to make sure that we don't have it but they have it.

13 **Mark Swartz:** Exactly, yeah.

14 **Butch Lambert:** Any other questions from the Board? [No response] Anything further, Mr.  
15 Swartz?

16 **Mark Swartz:** No.

17 **Butch Lambert:** Do I have a motion?

18 **Donnie Rife:** Motion made for approval, Mr. Chairman.

19 **Bill Harris:** Second.

20 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All  
21 in favor, signify by saying yes.

22 **Board:** Yes.

23 **Butch Lambert:** Opposed, no?

24 **Donnie Ratliff:** I'll abstain.

25 **Butch Lambert:** One abstention, Mr. Ratliff.

**Item Number 11**

**Butch Lambert:** A petition from CNX Gas Company, LLC, for pooling under Oakwood Coalbed Methane Gas Field I. This is Docket Number VGOB 17-0718-4135. All parties wishing to testify, please come forward.

**Mark Swartz:** Mark Swartz and Anita Duty.

**Butch Lambert:** You may proceed, Mr. Swartz.

**Mark Swartz:** Thank you. Anita, would you state your name for us, please.

**Anita Duty:** Anita Duty.

**Mark Swartz:** And are you here on behalf of CNX Gas Company, LLC, today?

**Anita Duty:** Yes.

**Mark Swartz:** Mr. Chairman, I'd like to incorporate Anita's testimony with regard to her employment. Standard lease terms and her opinions, with regard to reasonable development and correlative rights. And also with regard to the operator. I'm sorry.

**Butch Lambert:** Accepted.

**Mark Swartz:** Anita, this is a pooling application, correct?

**Anita Duty:** It is.

**Mark Swartz:** And it pertains to what unit?

**Anita Duty:** R (-2)

**Mark Swartz:** And this is an Oakwood 1 unit. Correct?

**Anita Duty:** Yes.

**Mark Swartz:** Okay. And we've got the same folks that we saw in the previous pooling application?

**Anita Duty:** Yes.

**Mark Swartz:** And do we have the same B2 issue?

**Anita Duty:** Yes.

1 **Mark Swartz:** Same people?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** Okay. So, we're dismissing one respondent who is Earl Inman, and we're  
4 correcting some information, with regard to our interest we provided two other respondents?

5 **Anita Duty:** To Roger Lockhart and Francis Lockhart.

6 **Mark Swartz:** Okay, and you have loaded on website E-Forms, the B2 for this as well?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** But, I will tell you it's not going to be in your packet, because I didn't have it  
9 either. Okay. And, if we look at the plat here, again there are how many wells?

10 **Anita Duty:** Two.

11 **Mark Swartz:** And it looks like they would be within a drilling window?

12 **Anita Duty:** They are.

13 **Mark Swartz:** Have you provided cost estimates for those two wells?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And what are those estimates?

16 **Anita Duty:** For R(-2), the estimated cost is \$345,920.00. The estimated depth of 2,500 feet; R(-  
17 2A), \$344,545.00; estimated depth 2,550 feet.

18 **Mark Swartz:** Neither one of these is drilled?

19 **Anita Duty:** No.

20 **Mark Swartz:** And we don't have permits yet either?

21 **Anita Duty:** No.

22 **Mark Swartz:** What did you do to notify the respondents that you've listed in the application,  
23 the notice, and Exhibit B3, that we, and other people, that we were going to have a hearing  
24 today?

25 **Anita Duty:** We mailed by Certified Mail, Return Receipt Requested, on June 1, 2017.  
26 Published the notice and location map in the *Bluefield Daily Telegraph* on June 6<sup>th</sup>.

1 **Mark Swartz:** Collectively the people that we're seeking to pool at the time you filed, what was  
2 there outstanding oil and gas interest?

3 **Anita Duty:** Currently, we're seeking to pool 7.2453%.

4 **Mark Swartz:** Okay, and that would be slightly less because of Mr. Inman's interest?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** But, at least when you filed, that's what we were looking to do?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** Okay. Have you provided the Board with an Exhibit B3, which sets forth the  
9 interests of all the respondents?

10 **Anita Duty:** Yes. Those are revised one that reflects the changes on B2.

11 **Mark Swartz:** And you've already uploaded the revised ones?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** Okay, and have you provided the Board with an Exhibit EE, for the going  
14 forward payments?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And, I think this is going to require escrow, as well, but let me look here.

17 **Anita Duty:** Same people, same...

18 **Mark Swartz:** Same folks, okay. Right, you've got an Exhibit E, and it says it would be the  
19 same unknown, unlocatable people that we saw in the prior petition.

20 **Anita Duty:** It is.

21 **Mark Swartz:** You've recopied the same court order, same map. That's all I have.

22 **Butch Lambert:** Questions from the Board? [No response] Anything further, Mr. Swartz?

23 **Mark Swartz:** No.

24 **Butch Lambert:** Do I have a motion?

25 **Donnie Rife:** Motion made for approval, Mr. Chairman.



1 **Bill Harris:** Second.

2 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All  
3 in favor, signify by saying yes.

4 **Board:** Yes.

5 **Butch Lambert:** Opposed, no?

6 **Butch Lambert:** Thank you, Mr. Swartz. That one is approved.

7 **Donnie Ratliff:** I'll abstain, Mr. Chairman.

8 **Butch Lambert:** One abstention, Mr. Ratliff.

9 **Item Number 12**

10 **Butch Lambert:** A petition from CNX Gas Company, LLC, for pooling under Oakwood  
11 Coalbed Methane Gas Field I. Docket Number VGOB 17-0718-4136. All parties wishing to  
12 testify, please come forward.

13 **Mark Swartz:** Mark Swartz and Anita Duty.

14 **Butch Lambert:** You may proceed, Mr. Swartz.

15 **Mark Swartz:** Thank you. Anita, would you state your name for us again?

16 **Anita Duty:** Anita Duty.

17 **Mark Swartz:** And are you here on behalf of CNX Gas Company, LLC?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Mr. Chairman, I'd like to incorporate her prior testimony with regard to her  
20 employment, the applicant and operator, and with regard to standard lease terms and her opinions  
21 concerning reasonable development and production of correlative rights.

22 **Butch Lambert:** Accepted.

23 **Mark Swartz:** Thank you. This is another pooling application, correct?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And it's for what unit?

26 **Anita Duty:** S(-1)

1 **Mark Swartz:** And this is in what field?

2 **Anita Duty:** Oakwood.

3 **Mark Swartz:** And how many acres?

4 **Anita Duty:** 80.

5 **Mark Swartz:** And, if we look at the plat, I think we have another unit that we are proposing  
6 two wells. Right?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And it looks like they're both in the drilling window?

9 **Anita Duty:** They are.

10 **Mark Swartz:** I'm going to have to ask this because it's driving me crazy. How come the  
11 drilling window isn't on the plat?

12 **Anita Duty:** I noticed that too. I just noticed it, not earlier.

13 **Mark Swartz:** Okay, you might mention it to your people.

14 **Anita Duty:** Yes.

15 **Mark Swartz:** But, I noticed in your notes that somebody did the calculation and it is in the  
16 window?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Okay, or they're both in the window. I don't know if I asked you this or not.  
19 This is an Oakwood 80?

20 **Anita Duty:** It is.

21 **Mark Swartz:** And I assume, if we were to look at the Exhibit B3, obviously, we don't have an  
22 Exhibit B2, as part of our packet at the moment.

23 **Anita Duty:** Right.

24 **Mark Swartz:** And, if we were looking at Exhibit B3, the part that's in our packet that we can  
25 see, that would not reflect the B2 changes?

26 **Anita Duty:** Correct.

1 **Mark Swartz:** But, is it true that you have loaded in E-Forms and Exhibit B2, with regard to  
2 this application?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And have revised Exhibit B3 accordingly?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And would it be the same revisions that we discussed in the prior pooling  
7 application?

8 **Anita Duty:** It is.

9 **Mark Swartz:** Same two people?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Okay, and this unit is going to require escrow? Same unlocatables issue that we  
12 saw in the prior unit?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And, I imagine when I get to the end here, I'm going to see the same court  
15 decision, although, no I don't. Okay. It wasn't attached to this one. Which is fine. It's okay. But  
16 we do need to cover the, if we haven't already, the well cost estimates, and I don't think we  
17 have.

18 **Anita Duty:** For S(-1), the estimated cost is \$332,103.00. With an estimated depth of 2,200 feet;  
19 S(-1A), estimated cost \$356,170.00; estimated depth 2,500 feet.

20 **Mark Swartz:** Neither of these, like the prior pooling application today, neither of these wells  
21 are drilled?

22 **Anita Duty:** No.

23 **Mark Swartz:** And you don't have permits yet. Correct?

24 **Anita Duty:** No.

25 **Mark Swartz:** Looking at the interest that we're seeking to pool here collectively, although the  
26 number, this was the interest at the time you filed?

27 **Anita Duty:** No, this is the new one.

1 **Mark Swartz:** This is the new one. Okay. What is the new percentage of outstanding interest  
2 that you're seeking to pool then?

3 **Anita Duty:** 6.338%.

4 **Mark Swartz:** And that reflects the B2 and B3 changes?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And you provided advanced notice of this?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And how did you do that?

9 **Anita Duty:** We mailed by Certified Mail, Return Receipt Requested, on June 7<sup>th</sup>, no June 1st.  
10 And published in the *Bluefield Daily Telegraph*, the notice and location map on June 7<sup>th</sup>.

11 **Mark Swartz:** And other than the issue addressed by B2, can I assume that you don't want to  
12 add any other respondents or dismiss any other people?

13 **Anita Duty:** No.

14 **Mark Swartz:** That's all I have, Mr. Chairman.

15 **Butch Lambert:** Any questions from the Board? [No response] Anything further, Mr. Swartz?

16 **Mark Swartz:** No.

17 **Butch Lambert:** Do I have a motion?

18 **Donnie Rife:** Motion made for approval, Mr. Chairman.

19 **Bill Harris:** Second.

20 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All  
21 in favor, signify by saying yes.

22 **Board:** Yes.

23 **Butch Lambert:** Opposed, no?

24 **Donnie Ratliff:** I'll abstain, Mr. Chairman.

25 **Butch Lambert:** One abstention, Mr. Ratliff.

**Item Number 13**

**Butch Lambert:** A petition from CNX Gas Company, LLC, for pooling under Oakwood Coalbed Methane Gas Field. Docket Number VGOB 17-0718-4137. All parties wishing to testify, please come forward.

**Mark Swartz:** Mark Swartz and Anita Duty.

**Butch Lambert:** You may proceed, Mr. Swartz.

**Mark Swartz:** Thank you. Anita, would you state your name for us once again?

**Mark Swartz:** Mr. Chairman, I'd like to incorporate Anita's testimony from the prior hearing, with regard to the applicant and operator, with regard to her employment, with regard to standard lease terms and with regard to her opinions concerning reasonable development and correlative rights protection.

**Butch Lambert:** Accepted.

**Mark Swartz:** Thank you. This is another pooling application, right?

**Anita Duty:** Yes.

**Mark Swartz:** What unit?

**Anita Duty:** S(-2).

**Mark Swartz:** And what field is that in?

**Anita Duty:** Oakwood.

**Mark Swartz:** And is it an 80-acre unit?

**Anita Duty:** It is.

**Mark Swartz:** Okay, and we'll get to the plat in a minute. Looking at the list of folks that you've identified as respondents, the same people that we were talking about in the last couple of docket items. Correct?

**Anita Duty:** Yes.

**Mark Swartz:** Do we once again have an Exhibit B2?

**Anita Duty:** We do.

**Mark Swartz:** And a revised B3?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And have those loaded with regard to this docket item?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** In E-Forms?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And the same people, Mr. Inman and the other two folks whose interest changed,  
7 are the people that are affected by B2 and the revision to B3?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** Do you want to add any other people to this list of respondents today?

10 **Anita Duty:** No.

11 **Mark Swartz:** Do you want to dismiss anybody besides Earl Inman?

12 **Anita Duty:** No.

13 **Mark Swartz:** What did you do to notify the people that you've listed as respondents and others  
14 who might be interested, that we were going to have a hearing today?

15 **Anita Duty:** We mailed by Certified Mail, Return Receipt Requested, on June 1, 2017.  
16 Published the notice and location map in the *Bluefield Daily Telegraph* on June 7<sup>th</sup>.

17 **Mark Swartz:** If we go down here into the plat, it looks like again, you have shown two wells?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And, it's pretty clear that both of these would be in a drilling window?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** Okay. Have you provided cost estimates, with regard to these two wells?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And what are those amounts?

24 **Anita Duty:** For S(-2), estimated cost is \$339,739.00; estimated depth 2,200 feet; S(-2A),  
25 estimated cost \$336,170.00; estimated depth 2,500 feet.

1 **Mark Swartz:** And is it, once again, the case that neither of these wells have been drilled?

2 **Anita Duty:** Correct.

3 **Mark Swartz:** And you have not yet obtained drilling permits.

4 **Anita Duty:** We have not.

5 **Mark Swartz:** Okay, and what is the percentage as of today, of the outstanding interest that  
6 you're seeking to pool?

7 **Anita Duty:** 1.9357%.

8 **Mark Swartz:** That reflects the B2 and revised Exhibit B3 changes?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Have you provided an Exhibit E, with regard to escrow going forward?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And that would be the same unknowns and unlocatables we've been discussing?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And, have you provided an Exhibit EE, with regard to payments going forward?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** We've already talked about the well cost estimates. That's all I have, Mr.  
17 Chairman.

18 **Butch Lambert:** Any questions from the Board? [No response] Anything further, Mr. Swartz?

19 **Mark Swartz:** No.

20 **Butch Lambert:** Do I have a motion?

21 **Donnie Rife:** Motion made for approval, Mr. Chairman.

22 **Bill Harris:** Second.

23 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All  
24 in favor, signify by saying yes.

25 **Board:** Yes.

1 **Butch Lambert:** Opposed, no? [No response] Thank you, Mr. Swartz.

2 **Item Number 14**

3 **Butch Lambert:** A petition from CNX Gas Company, LLC, for pooling under Oakwood  
4 Coalbed Methane Gas Field. This is Docket Number VGOB 17-0718-4138. All parties wishing  
5 to testify, please come forward.

6 **Mark Swartz:** Mark Swartz and Anita Duty.

7 **Butch Lambert:** You may proceed, Mr. Swartz.

8 **Mark Swartz:** Thank you. Anita, state your name for us again?

9 **Anita Duty:** Anita Duty.

10 **Mark Swartz:** And, are you here on behalf of CNX Gas Company, LLC?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Mr. Chairman, I'd like to incorporate Anita's testimony on earlier docket items  
13 today, with regard to the applicant and operator, with regard to her employment, with regard to  
14 standard lease terms and with regard to reasonable development and correlative rights protection.

15 **Butch Lambert:** Accepted.

16 **Mark Swartz:** Thank you. In regard to this unit, Anita, it's DD1, right?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And it's also an Oakwood?

19 **Anita Duty:** It is.

20 **Mark Swartz:** But I think this one actually is [Indiscernible]?

21 **Anita Duty:** It is.

22 **Mark Swartz:** And it's a little smaller. What's the acreage?

23 **Anita Duty:** 58.69.

24 **Mark Swartz:** And, you listed here the respondents in your notice and your petition and Exhibit  
25 B3. Correct?



1 **Anita Duty:** Yes.

2 **Mark Swartz:** And, do you want to dismiss any of those folks today?

3 **Anita Duty:** No.

4 **Mark Swartz:** Do you want to add anybody else as a respondent today?

5 **Anita Duty:** No.

6 **Mark Swartz:** What did you do to notify the people you named as respondents and others that  
7 there would be a hearing today?

8 **Anita Duty:** We mailed by Certified Mail, Return Receipt Requested, on June 12, 2017.  
9 Published the notice and location map in the *Bluefield Daily Telegraph* on June 14<sup>th</sup>.

10 **Mark Swartz:** And the percentage that you're seeking to pool, as of the date of filing and as of  
11 today, is what percentage?

12 **Anita Duty:** 6.0998%.

13 **Mark Swartz:** Go to the plat here, we've got the rectangular unit, right?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And the two wells proposed?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And this would not have a standard drilling window, because it's a smaller unit.  
18 Correct? It wouldn't have the same size?

19 **Anita Duty:** Right.

20 **Mark Swartz:** And is it true, however, that both of these wells are within the unit?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And have you provided cost estimates, with regard to these wells?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And what are those estimates?

25 **Anita Duty:** For DD1, the estimated cost is \$435,239.00; the estimated depth of 2,300 feet; for  
26 DD1A, estimated cost \$410,308.00 with an estimated depth of 2,100 feet.

1 **Mark Swartz:** And here we do have one permit?

2 **Anita Duty:** For Well DD1, it's 11,875.

3 **Mark Swartz:** And that has been drilled?

4 **Anita Duty:** It has.

5 **Mark Swartz:** And then the second proposed well has not been drilled and you do not, as of  
6 yet, have a permit for that?

7 **Anita Duty:** Right.

8 **Mark Swartz:** Looks like there's no escrow requirement here. Correct?

9 **Anita Duty:** There's not.

10 **Mark Swartz:** That's all I have.

11 **Butch Lambert:** Any questions from the Board? [No response] Anything further, Mr. Swartz?

12 **Mark Swartz:** I'm sorry. Can you give us one moment here? Anita, because it's a boundary  
13 unit, if you look at Page 14, and I don't know if yours shows up in color, but, you can see to the  
14 Northeast portion of that map, the squares are in green; that's Oakwood, and then you get down  
15 to this unit, which is shaded, which obviously is a smaller size than the typical unit, but it's still  
16 in green. We were just confirming to make sure that it was an Oakwood unit and our map  
17 indicates that it is. That's all I have.

18 **Butch Lambert:** Do I have a motion?

19 **Donnie Rife:** Motion made, Mr. Chairman.

20 **Bill Harris:** Second.

21 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All  
22 in favor, signify by saying yes.

23 **Board:** Yes.

24 **Butch Lambert:** Opposed, no? [No response] Thank you, Mr. Swartz. That one is approved.

25 **Mark Swartz:** Thank you.

**Item Number 15**

**Butch Lambert:** A petition from EnerVest Operating, LLC, for pooling of Unit VCI-530448. Docket Number VGOB 17-0718-4139. All parties wishing to speak to this item, please come forward. Good morning, gentlemen.

**Tim Scott:** Good morning. Again.

**Sarah Gilmer:** Mr. Anderson, Mr. Janson, do you swear and affirm that your testimony is the truth, the whole truth and nothing but the truth?

**Gus Janson:** I do.

**Aaron Anderson:** Yes.

**Butch Lambert:** You may proceed, Mr. Scott.

**Tim Scott:** Thank you. Mr. Anderson, please state your name, by whom you're employed, and your job description.

**Aaron Anderson:** My name's Aaron Anderson. I'm employed by EnerVest Operating, LLC, as an Associate Landman.

**Tim Scott:** You're familiar with this application?

**Aaron Anderson:** I am.

**Tim Scott:** And where is this unit located?

**Aaron Anderson:** In the Nora Coalbed Gas field.

**Tim Scott:** How many acres does it contain?

**Aaron Anderson:** 58.77.

**Tim Scott:** I believe EnerVest has a substantial portion of this unit under lease. Is that right?

**Aaron Anderson:** That is correct.

**Tim Scott:** Are we going to dismiss the party respondent listed on Exhibit B3 today.

**Aaron Anderson:** Yes.

**Tim Scott:** Okay. How was notice of this hearing provided to the parties on Exhibit B3?

**Aaron Anderson:** By Certified Mail, Return Receipt Requested.

**Tim Scott:** And, have we provided the proof of mailing to the Board?

1 **Aaron Anderson:** We have.

2 **Tim Scott:** Do we have any unknown owners in this unit?

3 **Aaron Anderson:** No.

4 **Tim Scott:** EnerVest is authorized to conduct business in the Commonwealth. Is that right?

5 **Aaron Anderson:** That's correct.

6 **Tim Scott:** And there's a blanket bond on file with the DMME?

7 **Aaron Anderson:** Yes.

8 **Tim Scott:** If you're able to reach an agreement with the party listed on Exhibit B3, what would  
9 be the lease terms you would offer?

10 **Aaron Anderson:** \$25.00 per acre for a five-year, paid-up lease with a 1/8 royalty.

11 **Tim Scott:** Do you consider that to be a reasonable compensation for a lease in this area?

12 **Aaron Anderson:** I do.

13 **Tim Scott:** What percentage of the unit does EnerVest have under lease?

14 **Aaron Anderson:** 99.83.

15 **Tim Scott:** And that does include fee simple ownership, is that right? Other than minerals?

16 **Aaron Anderson:** Yes.

17 **Tim Scott:** And what percentage of the gas estate are you seeking to pool today?

18 **Aaron Anderson:** 0.17.

19 **Tim Scott:** Do we have an escrow requirement?

20 **Aaron Anderson:** No, we do not.

21 **Tim Scott:** And, you are requesting the Board to pool the unleased parties listed on Exhibit B3?

22 **Aaron Anderson:** Yes.

23 **Tim Scott:** And that EnerVest be named an operator, is that also correct?

24 **Aaron Anderson:** That's correct.

1 **Tim Scott:** Now, in the event that the Board grants our application today and we send out the  
2 recorded order for parties to make elections, what would be the address you use for making any  
3 elections?

4 **Aaron Anderson:** Sent it to EnerVest Operating, LLC, 408 West Main Street, Abingdon, VA  
5 24210. Attention Chuck Akers, Land Manager .

6 **Tim Scott:** And would that be the address for all communications regarding any order entered by  
7 the Board?

8 **Aaron Anderson:** Yes.

9 **Tim Scott:** That's all I have for Mr. Anderson.

10 **Butch Lambert:** Any questions from the Board? [No response] You may continue, Mr. Scott.

11 **Tim Scott:** Thank you. Mr. Janson, your name, by whom you're employed, and your job  
12 description, please.

13 **Gus Janson:** My name is Gus Janson, employed by EnerVest Operating, LLC as the Geology  
14 Advisor.

15 **Tim Scott:** Did you help with the preparation of this application?

16 **Gus Janson:** I did.

17 **Tim Scott:** So, you're familiar with the total depth of this proposed well?

18 **Gus Janson:** Yes. Proposed well depth is 2,757 feet.

19 **Tim Scott:** And what are the estimated reserves for this unit?

20 **Gus Janson:** Estimated reserves are 825 million cubic feet of gas.

21 **Tim Scott:** You're also familiar with the proposed well cost. Is that right?

22 **Gus Janson:** I am.

23 **Tim Scott:** Because you participated in the preparation of the AFE?

24 **Gus Janson:** Correct.

25 **Tim Scott:** What's the estimated dry hole cost?

26 **Gus Janson:** Estimated dry hole cost is \$144,400.00.

27 **Tim Scott:** And the completed well cost?

1 **Gus Janson:** \$392,700.00.

2 **Tim Scott:** You all like this AFE better? I think you can actually read it.

3 **Board:** Yes.

4 **Tim Scott:** So, can I. [laughs] In your opinion, Mr. Janson, if the Board grants our application  
5 today, would it prevent waste, promote conservation, and protect correlative rights?

6 **Gus Janson:** Yes, it would.

7 **Tim Scott:** That's all I have for Mr. Janson.

8 **Butch Lambert:** Any questions from the Board? [No response] Anything further, Mr. Scott?

9 **Tim Scott:** That's all I have on this one, Mr. Chairman.

10 **Butch Lambert:** Do I have a motion?

11 **Donnie Rife:** Motion made for approval, Mr. Chairman.

12 **Bill Harris:** Second.

13 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All  
14 in favor, signify by saying yes.

15 **Board:** Yes.

16 **Butch Lambert:** Opposed, no? [No response] Thank you, Mr. Scott. That one is approved.

17 **Item Number 16**

18 **Butch Lambert:** A petition from EnerVest Operating, LLC, for pooling of Unit VCI-530489.  
19 Docket Number VGOB 17-0718-4140. All parties wishing to testify, please come forward.

20 **Tim Scott:** Tim Scott, Gus Janson, and Aaron Anderson for EnerVest Operating.

21 **Butch Lambert:** You may proceed, Mr. Scott.

22 **Tim Scott:** Thank you, Mr. Chairman. Mr. Anderson, again your name, by whom you're  
23 employed, and your job description.

24 **Aaron Anderson:** My name's Aaron Anderson. I'm employed by EnerVest Operating, LLC, as  
25 an Associate Landman.

26 **Tim Scott:** And again, this unit is located in the Nora Coalbed Gas field. Is that right?

27 **Aaron Anderson:** That's correct.

1 **Tim Scott:** And how many acres does it contain?

2 **Aaron Anderson:** 58.77.

3 **Tim Scott:** And EnerVest does have a substantial portion of this unit under lease. Is that correct?

4 **Aaron Anderson:** That is correct.

5 **Tim Scott:** And that does include fee simple ownership and the minerals. Is that also correct?

6 **Aaron Anderson:** Yes.

7 **Tim Scott:** Now we have, for the purposes of this hearing, we have only one party listed on  
8 Exhibit B3. Is that right?

9 **Aaron Anderson:** That's correct.

10 **Tim Scott:** And that party is unknown. Is that correct?

11 **Aaron Anderson:** That's correct.

12 **Tim Scott:** So, how was notice of this hearing provided?

13 **Aaron Anderson:** By publication in the *Dickenson Star* on June 21, 2017.

14 **Tim Scott:** And, have we provided proof of publication to the Board?

15 **Aaron Anderson:** We have.

16 **Tim Scott:** And we just said that we have unknown owners in this unit, and what tract is that  
17 [Indiscernible] ?

18 **Aaron Anderson:** That's Tract 2.

19 **Tim Scott:** Have you provided the Board with a letter setting out your due diligence efforts to  
20 locate these individuals?

21 **Aaron Anderson:** We have.

22 **Tim Scott:** And again, EnerVest is authorized to conduct business in the Commonwealth. Is that  
23 right?

24 **Aaron Anderson:** That's correct.

25 **Tim Scott:** And there's a blanket bond on file?

26 **Aaron Anderson:** Yes.

1 **Tim Scott:** Now again, if you were to reach an agreement with the parties listed on Exhibit B3,  
2 what would be the lease terms you would offer?

3 **Aaron Anderson:** \$25.00 per acre for a five-year, paid-up lease with a 1/8 royalty.

4 **Tim Scott:** And again, that is a reasonable compensation for a lease in this area?

5 **Aaron Anderson:** Yes sir.

6 **Tim Scott:** What percentage of the gas estate does EnerVest have under lease?

7 **Aaron Anderson:** 51.91%.

8 **Tim Scott:** And again, you just testified that does include fee simple interest. Is that right?

9 **Aaron Anderson:** It does.

10 **Tim Scott:** And what percentage of the gas estate are you seeking to pool?

11 **Aaron Anderson:** 48.09.

12 **Tim Scott:** We do have an escrow requirement. Is that right?

13 **Aaron Anderson:** We do.

14 **Tim Scott:** And which tract and what percentage of the unit does this encompass?

15 **Aaron Anderson:** It's Tract 2 and it's 48.09% of the unit.

16 **Tim Scott:** You're asking the Board to pool the unleased parties listed on B3?

17 **Aaron Anderson:** Yes sir.

18 **Tim Scott:** And that EnerVest be named an operator, is that correct?

19 **Aaron Anderson:** That's correct.

20 **Tim Scott:** Now, if the Board grants our application today and we send out, we're able to locate  
21 these individuals, in order so that parties can make an election, what would be the address used?

22 **Aaron Anderson:** Sent it to EnerVest Operating, LLC, 408 West Main Street, Abingdon, VA  
23 24210. Attention Chuck Akers, Land Manager.

24 **Tim Scott:** And again, this should be the address for all communications, with regard to this  
25 order. Is that right?

26 **Aaron Anderson:** Yes sir.



1 **Tim Scott:** That's all I have for Mr. Anderson.

2 **Paul Kugelman, Jr.:** I'm just curious, what's the basis for the escrow requirement?

3 **Tim Scott:** Unknowns.

4 **Paul Kugelman, Jr.:** I see. Okay, thank you.

5 **Tim Scott:** And we are, as Mr. Anderson would testify, we're ongoing. A lot of these things,  
6 we've inherited.

7 **Paul Kugelman, Jr.:** Right.

8 **Tim Scott:** And so, we just recently have been able to locate interest, not of this particular one,  
9 one that we will be force pooling. It's 1/16,680 So, we're always doing this, are we not, Mr.  
10 Anderson.

11 **Aaron Anderson:** Yes sir.

12 **Tim Scott:** Okay.

13 **Paul Kugelman, Jr.:** Alright. I appreciate that. Thank you.

14 **Aaron Anderson:** I'd like to make a correction to my testimony. That's Tract 3 that contains the  
15 unknown owners, not Tract 2.

16 **Butch Lambert:** The unknowns was Tract 3?

17 **Tim Scott:** Yes sir.

18 **Butch Lambert:** Okay, we've got Tract 2 in the docket.

19 **Paul Kugelman, Jr.:** So, if we're disbursing Tract 2 and the unknowns don't belong in Tract 2,  
20 is there an escrow requirement?

21 **Aaron Anderson:** Tract 3.

22 **Paul Kugelman, Jr.:** Right, the unknowns are in Tract 3, but we're disbursing Tract 2.

23 **Tim Scott:** No, Tract 2 is actually a tract that EnerVest owns in fee. So, we have three tracts.  
24 That was my mistake.

25 **Paul Kugelman, Jr.:** No worries, I just wanted to make sure we were straight there. Thank you.

26 **Tim Scott:** Yes sir.

27 **Paul Kugelman, Jr.:** I apologize if I confused things.

1 **Tim Scott:** No. No, you didn't. I can do that on my own. [laughs]

2 **Paul Kugelman, Jr.:** I think we're all guilty of that to a degree.

3 **Butch Lambert:** Any questions from the Board? [No response] You may continue, Mr. Scott.

4 **Tim Scott:** Thank you, Mr. Chairman. Mr. Janson, again, your name, by whom you're

5 employed, and your job description.

6 **Gus Janson:** My name is Gus Janson, employed by EnerVest Operating, LLC, as the Geology

7 Advisor.

8 **Tim Scott:** And you're familiar with the total depth of this well?

9 **Gus Janson:** Yes. Proposed depth of the well is 2,785 feet.

10 **Tim Scott:** And you did participate in the preparation of the application. Is that right?

11 **Gus Janson:** I did.

12 **Tim Scott:** Are you familiar with the estimated reserves for this unit?

13 **Gus Janson:** Yes. The estimated reserves are 820 million cubic feet of gas.

14 **Tim Scott:** And, are you also familiar with the well cost for the proposed unit?

15 **Gus Janson:** I am.

16 **Tim Scott:** What is the estimated dry hole cost?

17 **Gus Janson:** Dry hole cost is estimated at \$162,600.00.

18 **Tim Scott:** And the completed well cost?

19 **Gus Janson:** \$391,650.00.

20 **Tim Scott:** And, in your opinion, if the Board grants our application, would it promote

21 conservation, prevent waste, and protect correlative rights?

22 **Gus Janson:** Yes, it would.

23 **Tim Scott:** That's all I have for Mr. Janson.

24 **Butch Lambert:** Any questions from the Board? [No response] Do I have a motion?

25 **Donnie Rife:** Motion made for approval, Mr. Chairman.

26 **Bill Harris:** I'll second that.

1 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All  
2 in favor, signify by saying yes.

3 **Board:** Yes.

4 **Butch Lambert:** Opposed, no? [No response]

5 **Donnie Ratliff:** I'll abstain, Mr. Chairman.

6 **Butch Lambert:** Thank you, folks.

7 **Tim Scott:** Thank you.

8 **Aaron Anderson:** Thank you.

9 **Item Number 17**

10 **Butch Lambert:** The Board will receive an update of Board and Division activities from the  
11 staff. Mr. Cooper.

12 **Rick Cooper:** Yes. I guess I don't need to re-report the disbursement. Jody went over that pretty  
13 thoroughly this morning, so I think we're good on that. And secondly, I told the Board I would  
14 do a follow up on the Board regulations and, technically, they're not approved yet, so I will  
15 actually do that the next Board hearing we have. They should be approved by then. Make sure  
16 everything goes smoothly; and thirdly, I was told to report monthly on the Yellow Poplar, and  
17 the reason EnerVest has submitted approximately 30 of the yellow poplar. We just received  
18 those recently. We review those, report those monthly, and so, we think there are 60 of those. 58  
19 of them are EnerVest, one is EQT, and one is CNX.

20 **Butch Lambert:** You have received?

21 **Rick Cooper:** We have approximately 30 that were just recently sent in.

22 **Paul Kugelman, Jr.:** 30 of the 60.

23 **Rick Cooper:** 30 of 58 of EnerVest. They're all EnerVest that have been sent in.

24 **Paul Kugelman, Jr.:** So, 60 total; 58 EnerVest?

25 **Rick Cooper:** Correct.

26 **Paul Kugelman, Jr.:** And you have 30 for EnerVest?

27 **Rick Cooper:** Correct. We will process those as quick as we can and update the Board monthly.  
28 Yes sir?

1 **Butch Lambert:** Mr. Cooper, just one item of note before we dismiss. The Attorney General,  
2 Mark Herring, will be here at 1:30 p.m. for press conference to discuss disbursement from the  
3 escrow fund to date. So, anybody that wants to stay around for that, you are welcome to stay.  
4 Lunch is here?

5 **Rick Cooper:** It's supposed to be here any second now, right Sally?

6 **Sally Ketron:** Yes.

7 **Item Number 18**

8 **Butch Lambert:** Okay, the final item on our docket is we will receive an update, no, we've  
9 already done that. The Board will review the June 2017 minutes and accept for approval. Any  
10 additions or corrections? If not, may I have a motion to approve?

11 **Donnie Rife:** Motion to approve as presented, Mr. Chairman.

12 **Bill Harris:** I'll second it.

13 **Butch Lambert:** I have a motion and I have a second. All in favor, signify by saying yes.

14 **Board:** Yes.

15 **Butch Lambert:** Opposed no? Thank you, folks. We're adjourned.